

MONTANA LEGISLATIVE HISTORY

Chapter 10 1989 Special Session June '89

Bill HB 20 S _____ Original bill & history ✓c

H. Committee on Taxation

Hearing Date(s) 6/20 _____c

6/21 _____c

_____c

_____c

Date Out _____c

S. Committee on Taxation

Hearing Date(s) 6/24 _____c

6/29 taken from Committee

_____c

_____c

Did this bill originate in an interim committee? _____Yes _____No

Committee _____

Report _____

Free Conference Committee

7/10 appointed

7/13 Report

7/14 H & S floor

HOUSE FINAL STATUS

THE PERMANENT TRUST EARNINGS ALLOCATED TO
THE PERMANENT TRUST

6/16 INTRODUCED
6/19 REFERRED TO TAXATION
6/19 FISCAL NOTE REQUESTED
6/21 FISCAL NOTE RECEIVED
DIED IN COMMITTEE

HB 19 INTRODUCED BY BOHARSKI
PROHIBIT THE BOARD OF PUBLIC EDUCATION FROM ADOPTING
A RULE WITH SUBSTANTIAL FINANCIAL IMPACT
UNLESS THE PROPOSED RULE IS FUNDED BY THE
LEGISLATURE

6/19 INTRODUCED
6/19 REFERRED TO EDUCATION & CULTURAL RESOURCES
6/21 HEARING
DIED IN COMMITTEE

HB 20 INTRODUCED BY DAILY, ET AL.
REDUCE TO A SINGLE RATE THE PROPERTY TAX RATE ON
CERTAIN PERSONAL PROPERTY; COMBINE PERSONAL
PROPERTY CLASSES; PHASE IN A REDUCTION IN
THE TAX RATE FOR CLASS EIGHT PROPERTY;
CLASSIFY AS CLASS SIX PROPERTY THE EQUIPMENT
AND MACHINERY USED TO PROCESS CANOLA SEED
OIL; PROVIDE AN APPROPRIATION TO SCHOOL
DISTRICTS AND LOCAL GOVERNMENTS TO REIMBURSE
MONEY LOST THROUGH PERSONAL PROPERTY TAX
REDUCTIONS

6/19 INTRODUCED
6/19 REFERRED TO TAXATION
6/19 FISCAL NOTE REQUESTED
6/20 HEARING
6/21 FISCAL NOTE RECEIVED
6/21 COMMITTEE REPORT--BILL PASSED AS AMENDED
6/22 2ND READING PASSED AS AMENDED 82 13
6/23 3RD READING PASSED 79 12

TRANSMITTED TO SENATE
6/24 REFERRED TO TAXATION
6/24 HEARING
6/29 TAKEN FROM COMMITTEE 27 21
7/06 2ND READING CONCURRED AS AMENDED 29 18
7/06 3RD READING CONCURRED 30 20

RETURNED TO HOUSE WITH AMENDMENTS
7/10 2ND READING AMENDMENTS NOT CONCURRED 52 48
7/10 FREE CONFERENCE COMMITTEE APPOINTED
7/13 FREE CONFERENCE COMMITTEE REPORT NO. 1
7/13 2ND READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 67 29
7/14 3RD READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 70 22

SENATE
7/11 FREE CONFERENCE COMMITTEE APPOINTED
7/13 FREE CONFERENCE COMMITTEE REPORT NO. 1

HOUSE FINAL STATUS

7/14 2ND READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 32 17
7/14 3RD READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 34 15

7/18 SIGNED BY PRESIDENT
7/20 SIGNED BY SPEAKER
7/21 TRANSMITTED TO GOVERNOR
7/25 SIGNED BY GOVERNOR
CHAPTER NUMBER 10 EFFECTIVE DATE: 07/25/89

HB 21 INTRODUCED BY MOORE, ET AL.
IMPOSE A RETAIL LUXURY SURCHARGE AND USE TAX ON
CERTAIN LUXURY GOODS AND SERVICES

6/19 INTRODUCED
6/19 FISCAL NOTE REQUESTED
6/20 REFERRED TO TAXATION
6/22 FISCAL NOTE RECEIVED
6/26 FISCAL NOTE PRINTED
6/28 HEARING
DIED IN COMMITTEE

HB 22 INTRODUCED BY CONNELLY, ET AL.
PROVIDE THAT A CORPORATION WHOSE INTEREST ON ITS
BONDS TOTALS 80 PERCENT OR MORE OF ALL
INTEREST, DIVIDENDS, AND OTHER DEBTS PAID IN
A TAX YEAR MAY NOT DEDUCT THE INTEREST PAID
ON THE BONDS FROM ITS GROSS INCOME FOR
CORPORATION LICENSE AND INCOME TAX PURPOSES

6/19 INTRODUCED
6/19 FISCAL NOTE REQUESTED
6/20 REFERRED TO TAXATION
6/21 FISCAL NOTE RECEIVED
6/22 FISCAL NOTE PRINTED
6/23 HEARING
DIED IN COMMITTEE

HB 23 INTRODUCED BY REAM, ET AL.
EXEMPT ECONOMIC DEVELOPMENT LEVIES FROM PROPERTY
TAX FREEZE IF THE AUTHORIZATION FOR THE LEVY
OCCURRED PRIOR TO DECEMBER 31, 1990

6/19 INTRODUCED
6/20 REFERRED TO TAXATION
6/22 HEARING
6/22 COMMITTEE REPORT--BILL PASSED AS AMENDED
6/24 2ND READING PASSED 75 18
6/27 3RD READING PASSED 73 25

TRANSMITTED TO SENATE
6/28 REFERRED TO TAXATION
6/29 HEARING
7/01 COMMITTEE REPORT--BILL CONCURRED
7/01 2ND READING CONCURRED 49 0
7/01 3RD READING CONCURRED 47 2

RETURNED TO HOUSE
7/06 SIGNED BY SPEAKER

HOUSE BILL NO. 20

INTRODUCED BY DAILY, QUILICI, PAVLOVICH, LYNCH,
D. BROWN, JACOBSON, HARRINGTON, MENAHAN, KILPATRICK,
DRISCOLL, ADDY, KIMBERLEY, WHALEN, REHBERG, HANNAH,
RAMIREZ, PATTERSON, MCDONOUGH, GLASER, STIMATZ,
BLAYLOCK, KEATING, BISHOP, HAGER, REGAN,
SIMON, COMPTON, ROTH, PHILLIPS

IN THE HOUSE

JUNE 19, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

JUNE 21, 1989 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JUNE 22, 1989 PRINTING REPORT.

 ON MOTION, RULES SUSPENDED AND BILL
PLACED ON SECOND READING THIS DAY.

 SECOND READING, DO PASS AS AMENDED.

 ENGROSSING REPORT.

JUNE 23, 1989 THIRD READING, PASSED.
AYES, 79; NOES, 12.

 TRANSMITTED TO SENATE.

IN THE SENATE

JUNE 24, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

 FIRST READING.

JUNE 29, 1989 ON MOTION, BILL TAKEN FROM COMMITTEE
ON TAXATION AND PLACED ON SECOND
READING THIS DAY.

JULY 6, 1989 ON MOTION, BILL PLACED ON SECOND
READING THIS 14TH LEGISLATIVE DAY.

SECOND READING, CONCURRED IN AS
AMENDED.

THIRD READING, CONCURRED IN.
AYES, 30; NOES, 20.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

JULY 7, 1989

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

JULY 8, 1989

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

JULY 10, 1989

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

JULY 11, 1989

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

JULY 14, 1989

FREE CONFERENCE COMMITTEE REPORT
ADOPTED.

IN THE HOUSE

JULY 13, 1989

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

JULY 14, 1989

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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HOUSE BILL NO. 20

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLASSIFY AS CLASS
FIVE PROPERTY THE EQUIPMENT AND MACHINERY USED TO PROCESS
AND PACKAGE CANOLA SEED OIL; AMENDING SECTION 15-6-135, MCA;

AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description --
taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations
organized under the laws of Montana, except property owned
by cooperative organizations described in subsection (1)(b)
of 15-6-137;

(b) air and water pollution control equipment as
defined in this section;

(c) new industrial property as defined in this
section;

(d) any personal or real property used primarily in
the production of gasohol during construction and for the
first 3 years of its operation;

(e) all land and improvements and all personal

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property owned by a research and development firm, provided
that the property is actively devoted to research and
development;

(f) machinery and equipment used in electrolytic
reduction facilities;

(g) machinery and equipment used in canola seed oil
processing and packaging facilities.

(2) (a) "Air and water pollution equipment" means
facilities, machinery, or equipment used to reduce or
control water or atmospheric pollution or contamination by
removing, reducing, altering, disposing, or storing
pollutants, contaminants, wastes, or heat. The department of
health and environmental sciences shall determine if such
utilization is being made.

(b) The department of health and environmental
sciences' determination as to air and water pollution
equipment may be appealed to the board of health and
environmental sciences and may not be appealed to either a
county tax appeal board or the state tax appeal board.
However, the appraised value of the equipment as determined
by the department of revenue may be appealed to the county
tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial
plant, including land, buildings, machinery, and fixtures,
used by new industries during the first 3 years of their

operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer; or

(d) property otherwise classified as class five property.

(6) "Canola seed oil processing and packaging facility" means a facility that:

(a) extracts oil from canola seeds, refines the crude oil to produce edible oil, and formulates and packages the edible oil into food products;

(b) refines crude canola oil to produce edible oil and formulates and packages the edible oil into food products;

(c) refines crude canola oil to produce edible oil; or

(d) formulates and packages edible canola oil into food products.

(6)(7) Class five property is taxed at 3% of its market value."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on June 20, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All members of the committee were present with the exception of Representative Kadas.

Members Excused: Representative Kadas

Members Absent: None

Staff Present: Lee Heiman, Legislative Council Staff
Donna Grace, Committee Secretary

Announcements/Discussion: Before going into Executive Action, the committee will wait for the fiscal note on HB 2. More information will be provided to the committee on HB 20. HB 5 will be assigned to a sub-committee along with other bills relative to taxation of retiree benefits.

HEARING ON HOUSE BILL 20

Presentation and Opening Statement by Sponsor:

Representative Fritz Daily, House District No. 69, stated that this bill was requested by Don Peoples, Mayor of the City of Butte, and Evan Barrett, the Director of the Development Corporation of Butte. The bill is designed to lower the property tax classification for equipment used to package and process canola oil. Currently the Canbra Foods Co. of Lethbridge, Canada, is considering location of a plant in one of three cities in the United States -- Butte, Boise or Reno. One of the main problems with locating in Butte is that the tax classification is so high. The company would be expending between \$20 and \$23 million and would be employing about 150 people. This bill is similar to the one which was introduced during the regular session by the Billings delegation which would have lowered the tax classification for the Anhaeuser Busch Corporation when they were considering the location of a malting plant in Billings. Representative Daily stated that Mr. Peoples was present at the hearing and would explain more about the reason for the request for legislation.

Testifying Proponents and Who They Represent:

Don Ingels, Montana Chamber of Commerce
Laurie Shadoan, Bozeman Chamber of Commerce
Dan Walker, Billings Chamber of Commerce
Chris Gallus, Butte Silver Bow County
Rose Leavitt, HAEDCO
John Lahr, Montana Power Co.
Don Peoples, Chief Executive, Butte-Silver Bow
Joe Quilici, Representing HD 71, Butte, MT
James Talbo

Proponent Testimony:

Don Peoples, Chief Executive of Butte-Silver Bow, advised that this bill would place Butte in a competitive position with the other two cities under consideration for location of the canola processing plant. He felt they were equal in transportation, facilities, cost and availability of labor, but the one area they were not competitive in was property tax. This legislation would benefit not only Butte but the entire State of Montana. It would introduce into this area a food processing facility which would be a diversification to the economy which is badly needed. It would also utilize the HUB facility which was built in Butte with money appropriated by the legislature. There is also a possibility that a packaging facility would be built next to the canola oil processing facility and that in itself would be very important and enhance the community's competitive nature as well. Mr. Peoples urged the committee to look very carefully at HB 20 and lower the tax classification.

Representative Joe Quilici, House District No. 71, Butte, stated that one of the things besides equalization to be considered in this session was the reduction of some personal property taxes. This is a chance to get an industry into Montana that would create jobs and would be a step forward for Montana. Without lowering this type of personal property taxes Montana doesn't have a chance. He informed the committee that the State of Illinois had spent \$30 million to keep Sears in Chicago. They are trying to keep the industries within their state and Montana is trying to bring the industries in. He asked the committee to give this bill favorable consideration not only to bring this industry into Montana but to also bring other industry into Montana by making tax rates competitive.

Evan Barrett, Executive Director of the Butte Development Program, showed the committee a packet of information they had put together for the Canbra Foods company which indicated that Butte was very strong competitively with the other cities being considered with the exception of the equipment and personal property taxes. The Canbra Foods is a company that makes canola oil which is a product that is used for a healthful salad oil with no cholesterol and is very low in polyunsaturates and high in monounsaturates. According to Consumer Reports this is the most healthful oil

that can be used so there is obviously a broadening market for this product. The Canbra Foods are looking at sending about 60% of their product to California and 40% to the rest of the western states. The process is to take rapeseed, crush it down to crude oil, refine it into a processed state and formulate that into an edible product such as salad oil, cooking oil, margarine and shortening. The original plan was just to do the refining in Montana and ship the product in bulk tankers to California to package it. He said that his organization had convinced the Canbra Corporation that it makes sense to add more value to the product in Montana and take the additional steps. The discussions now indicate that if they locate in Butte they will do all the steps in Butte and the finished product will be shipped from there. Mr. Barrett stated that the four major concerns of the Canbra Corporation were transportation, taxes, utility rates and labor costs and availability and quality of labor. When looking at the tax situation there is quite a disincentive to locate in Montana. The long term effective tax rate given the current situation would be three times higher than Boise and four and a half times higher than Reno. What this bill envisions is taking the three year incentive rate and making it permanent for this type of facility. The Department of Revenue did an analysis and they determined that the long term effective rate in Boise would be 1.2 or 1.3 percent. The long term effective rate in Reno would be .875 percent and by passing this bill it would put the long term effective rate at 1.388 percent for Montana. Mr. Barrett urged the committee to give favorable consideration to this legislation.

Mr. Don Ingels, Montana Chamber of Commerce, said that the Montana Chamber would support House Bill 20.

John Lahr, Montana Power Company, appeared before the committee to support HB 20. He said they were interested in the economic expansion in the Butte area. Montana Power provides electric and gas rates which are among the lowest in the nation which contributes to facilitating the location of this industry in Montana.

Rose Leavitt, Helena Area Economic Development Corporation. She spoke in favor of HB 20, saying that she thought it was vital to the State of Montana to re-think the tax structure for business if development is to be encouraged. This would be an excellent opportunity to bring in a new industry. Several cities in Montana did compete for this business, but all the economic development councils in the state are willing to support whichever city in Montana is bringing this business in.

Laurie Shadoan, representing the Bozeman Chamber of Commerce, said that she is on the economic development board of the Gallatin County Development Council. The message that needs to go out loud and clear is reduction of property taxes.

Although Bozeman was not one of the finalists, they would definitely applaud Butte and ask that the committee look favorably at HB 20.

Dan Walker, a member of the Board of Directors of the Billings Chamber of Commerce, and also representing the Billings Economic Development Council, appeared in support of this bill.

James Talbo stated he was in favor of financial incentives but perhaps it should be made a permanent financial incentive or it should be tied to some sort of income or employment.

Testifying Opponents and Who They Represent:

Dr. Nordtvedt, Dept. Of Revenue

Opponent Testimony:

Dr. Nordtvedt stated that he was not really an opponent, but more of a "no-ponent". His opinion was that this state had better get on the same track and reduce personal property tax throughout the state. He said that the personal property tax situation is so bad and he referred to the testimony of the proponents to the bill where they pointed out that there is a factor of three or four point disadvantage in tax rates in neighboring states. For this particular plan you could make the same testimony across the state. He said he had been traveling with the Governor and had learned that in Kalispell there was a high tech tool business, 320 employees, starting from scratch less than ten years ago and they are now considering moving the production part of their business to Idaho for precisely the same reasons. They can save \$100,000 on personal property taxes on their production machinery by moving them 100 miles into Idaho. Around the State there are similar cases. Personal property taxes have to be reduced across the board across the State because "we are fiddling while Montana burns", and each city is coming in to the legislature with a specific bill for a specific industry and the tax codes are being made into a joke by doing it piece by piece and it is time to get on the same track and reduce the personal property tax rates across the board throughout the State.

Questions From Committee Members:

Chairman Harrington said that he realized that Dr. Nordtvedt had spoken as an intermediary on this bill and asked if he felt the Governor would sign this bill if it were to be passed. Dr. Nordtvedt's reply was that he had not asked him regarding this specific bill. However, if the passage of this bill were to reduce the chances of reducing personal property taxes for the entire state. He felt the Governor would have to consider what would be in the best interests of the entire state. He said that the Governor's office

heartily supports, and has made it their top priority since January, to reduce personal property taxes throughout the state as the economy of the entire state was their concern. He said that the disturbing thing in this bill, and a continuation of several bills heard during the regular session, is that the situation is so bad yet the legislature fails to recognize the whole state and cities find it necessary to come to the legislature, job by job, and ask for personal property tax to promote a very narrow development. The Governor believes that the most important thing he can do for the State of Montana is reduce personal property taxes.

Chairman Harrington then asked Dr. Nordtvedt what would happen if agreement could not be reached within the short period of time the legislature will be in session. Dr. Nordtvedt said he could not answer the question as he felt it was hypothetical.

Representative Raney said that if the legislature were to go across the board with personal property tax relief, everyone recognizes that something must be done. His question to Dr. Nordtvedt was, if the legislature does not philosophically agree with the Governor's tax reform, would the Governor oppose this piece of legislation? Dr. Nordtvedt replied that the Governor's office is offering a variety of tax revenue sources to fund personal property tax reduction but stopped short of the shifting of taxes from personal property taxes on to other taxes. The objection to using higher income taxes to fund personal property taxes is you shift it to other human efforts. There are several other sources and several have been identified and he invited the legislature to invent others on non-productive activities. For example, not to raid the \$400 million coal trust but divert future revenue, increase the tax on video poker machines, and there are others if you reject those. Dr. Nordtvedt stated that the sales tax had been suggested in the regular session and that was rejected. Higher income tax would be a transfer to other productive activities.

Representative Good asked Representative Daily if he didn't think it would be fair to give the people who had been in business a long time a break. She stated that during the regular session she had presented an amendment that would include General Mills in the same sort of tax break scenario. They have been in her town for a long time and suffered the abuse of the Montana property tax system. Many people who have signed on the current bill opposed that property tax relief for a business that has been kicked around and abused quite a bit. She asked why they would come at this time and want to give these people a break. She said she could understand it from their prospective but she would like to know what the reasoning was in opposing the people who have been in our state for a long time and why they shouldn't be rewarded. Representative Daily responded that it was a very

difficult question and, going back to Dr. Nordtvedt's comment, there is no question that the legislature must look at personal property tax reform. However, in that process it is necessary to look at replacement revenue for local governments and there are some plans to do that. In this particular case there is an opportunity to get a new business into Montana and it behooves the legislature to take this bill and pass it and hopefully, sometime during the session there will be some personal property tax reform.

Representative Good then asked how long the legislature planned to make businesses like General Mills wait. Representative Daily said he hoped it would be soon.

Representative Schye inquired if the rapeseed from which canola oil is made is raised in Montana. Mr. Peoples replied that it is not a major crop in Montana but some is raised in north central Montana. A number of areas are looking at it as an alternative crop for the future. Most of the canola processed in this plant will come from Canada. The small amount that is grown in Montana is processed at Culbertson.

Representative Giacometto asked if there were other manufacturers who wanted to come into Butte at this time. Mr. Peoples replied that they are trying to create some specific targets for industrialization on their own initiative but this request was built around responding to a company's desire to expand. Representative Giacometto then suggested that perhaps it would be better if the bill were changed to cover any new business wanting to come into the state as long as they were Class 5, ag processing. Mr. Peoples said they wouldn't have any objection to that. He said they realized that they had to do something to make them competitive and to have general property tax relief for business machinery and equipment would be the best of all possible worlds if alternative revenues could be found but, short of that, the next best thing would be Representative Giacometto's approach and, short of that, this specific approach.

Representative Giacometto said that he was in favor of Representative Daily's bill, but stated that things weren't getting done because they were arguing about the replacement revenue. He asked why this bill could not be made all-inclusive. Because these would be new businesses coming into the state, there would not be any "replacement" revenue because they were new, and it would be a state-wide thing. Billings would then have the same competitive edge as any other place in the state for any type of plant and these individual bills would not have to be introduced. Representative Daily said he had the same thoughts and he felt it would be a good idea. Rather than seeing this bill changed, however, he would rather see a committee bill that would do the same thing. This bill could then go through the process as is. The reason for this would be that, if for some reason the other bill did not pass, there would

still be this bill.

Mr. Barrett stated that the one thing the committee might want to concern itself with is a discriminatory application. If the bill is made too broad, and someone comes in competition, the new business gets a lower rate than the existing business, a lawsuit could result.

Representative Cohen asked Mr. Barrett about the tax rate being three or four times higher than in other areas.

Representative Cohen stated that he had read an article in a national magazine which indicated that people from economic development programs around the country felt that cutting property tax rates to encourage business was bad business for states and local governments. If the personal property tax is going to be 1.2% or .4% of their total costs it might not be a very significant figure. He asked if Mr. Barrett could provide the committee with Canbra's estimated cost factors which would show how much of the total cost of doing business in Montana is involved in the personal property tax. Mr. Barrett said he did not think he could get the entire budget but he could give some dollar figures. The long term effective rates for the three different areas, the cost would be \$886,000 for taxes; in \$240,000 in Boise; and \$175,000 in Reno. The bill being discussed would reduce the amount in Montana to approximately \$277,000. Mr. Barrett stated that the overall percentage of the total cost of doing business in Montana was probably not that great. However, decisions are levered by things like this and the range has to be lowered to make Montana competitive. He said the issue at hand is not how it fits into their percentages but whether or not the differential leverages their decision. Representative Cohen stated that he would still like to see more data.

Mr. Peoples said that he had read the same article which said that taxes were not a large factor and he said that he felt that might be true where taxes were average; however, in this case they are not average.

Representative Gilbert asked if the interpretation of the bill would include the canola processing plant in Culbertson and Mr. Barrett said that it would be included. Mr. Barrett said this could be done by including "and package" in the title, "and packaging" could be stricken from page 4, line 8, and on page 4, line 11 strike "and" and on page 4, line 12, strike the semicolon and insert "or engages in any one or more of those processes". Subsections (b), (c), and (d) would then no longer be necessary.

Representative Gilbert asked Mr. Daily if he would support such an amendment and the answer was that he would.

Representative Ellison asked Mr. Peoples if he didn't think this was, basically, bad tax policy. Mr. People agreed but said

that at this time there was no other alternative. He said he hoped that this session of the legislature would do something for the whole state, however, if something is not done for this plant it will not be there.

Representative Good asked Mr. Daily if he would object to amending the bill so there was some tax relief for General Mills. Representative Daily said he would not object if she could find a way to do it.

Representative Raney asked for further statistics and Mr. Barrett replied that he could have that information prior to the time the bill will be heard in executive session on June 21.

Closing by Sponsor:

Representative Daily said that he felt the discussion had been good and it was obvious there was a problem in Montana that had to be addressed. However, he hoped that the opportunity to get this business into Montana would not be lost because of the massive tax problems. He said he did not have a problem with other tax legislation but hoped the committee would give favorable consideration to HB 20 which would cover the Butte situation in case other legislation was not passed. Representative Daily commented that he did know that the Governor had written to the Canbra Foods Co. and expressed that he would do all he could to help them locate in Montana.

HEARING ON HOUSE BILL 5

Presentation and Opening Statement by Sponsor:

Representative Bernie Swift, House District 64, Ravalli County, said that House Bill 5 would provide a \$12,000 state tax exemption for all retirees in Montana. He said that most of the committee was probably aware that the NARFE had filed a suit similar to the Michigan/Davis case. The statistics relative to the number of retirees living in Montana are included in Exhibit 1. Representative Swift stated that this is a simple bill and he would prefer to not make it any more complex.

Testifying Proponents and Who They Represent:

Judy Carlson, Equity in Taxation
Lou Marquardt, Equity in Taxation

Proponent Testimony:

Lou Marquardt, a representative of a group of private retirees who have formed a group called Equity in Taxation, stated that his group would support any bill which provides for equity in taxable income which HB 5 does.

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

DATE:

June 20, 1989

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington. Chairman	✓		
Bob Ream, V. Chairman	✓		
Ben Cohen	✓		
Jerry Driscoll	✓		
Jim Elliott	✓		
Orval Ellison	✓		
Leo Giacometto	✓		
Bob Gilbert	✓		
Susan Good	✓		
Ed Grady	✓		
Marian Hanson	✓		
Robert Hoffman	✓		
Mike Kadas			
Francis Koehnke	✓		
Mark O'Keefe	✓		
John Patterson	✓		
Bob Raney	✓		
Dennis Rehberg	✓		
Ted Schye	✓		
Barry Stang	✓		
Jessica Stickney	✓		
Chuck Swysgood	✓		

VISITOR'S REGISTER

Taxation

SUBCOMMITTEE _____

AGENCY (S) _____

DATE 6-20-89

DEPARTMENT _____

NAME	REPRESENTING	SUP- PORT	OP- POSE
<i>Tom Schneider</i>	<i>MPEA</i>		<i>HB5</i>
<i>Don Ingels</i>	<i>Mt Chamber of Commerce</i>	<i>HB20</i>	
<i>Owen Warren</i>	<i>AARP</i>		<i>HB5</i>
<i>Laurie Shahan</i>	<i>Bozeman Chamber</i>	<i>HB20</i>	
<i>DAN WALKER</i>	<i>BILLINGS CHAMBER</i>	<i>HB20</i>	
<i>JUDY CARLSON</i>	<i>EQUITY IN TAXATION</i>	<i>HB5</i>	
<i>LOU MARQUARDT</i>	<i>EQUITY IN TAXATION</i>	<i>HB5</i>	
<i>Don Judge</i>	<i>MT STATE AFL-CIO</i>	<i>HB2</i>	
<i>Chris Grimes</i>	<i>Butte Silver Bow</i>	<i>HB20</i>	
<i>ROSE LEAVITT</i>	<i>HAEDCO</i>	<i>HB20</i>	
<i>JOHN LAHR</i>	<i>MPC</i>	<i>HB20</i>	
<i>Sore Huntington</i>	<i>Retired Teachers</i>		<i>HB5</i>
<i>Richard Williams</i>	<i>AMRPE</i>		<i>HB5</i>
<i>Phil Campbell</i>	<i>MEA</i>	<i>HB2</i>	<i>HB5</i>
<i>Eric Nathan</i>	<i>AARP</i>		<i>HB5</i>

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on June 21, 1989, at 8:30 a.m.

ROLL CALL

Members Present: All members were present.

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Announcements/Discussion: None.

HEARING ON HOUSE BILL 4

A BILL FOR AN ACT ENTITLED: 'AN ACT REQUIRING ASSESSMENT OF A MOTOR VEHICLE FOR TAX PURPOSES TO INCLUDE A PERTINENT ADDITION OR DEDUCTION FOR A DIESEL ENGINE; AND AMENDING SECTION 61-3-503, MCA."

Presentation and Opening Statement by Sponsor:

Representative Norm Wallin testified in favor of the bill he was introducing. What the bill addresses is an inequity in the charging of taxes on certain vehicles when people buy their cars equipped with a diesel engine. When he was home during the regular session a man came to him and said he had bought a used oldsmobile equipped with a diesel engine and when he went to have it assessed, the assessed valuation was twice what he had paid for the car. He looked into it and found that there was a credit that should have been applied against the car in the charge of the tax on that particular vehicle. He went to the tax appeal board and they said they couldn't do anything because the law is very explicit and the figures could not be changed. This was part of a law passed in 1987. What HB 4 does is to have the assessors in putting the assessed valuation on these vehicles would give credit which the law does not allow them to do but they could under this new law. Mr. Wallin presented some examples taken from the "Blue Book" which gives the trade in value of cars which is used by dealers in determining price. He said that people who own these cars are actually stuck with them because no one wants them and, in addition, they are also stuck with paying almost double tax on them.

Testifying Proponents and Who They Represent:

Doug Mitchell, Office of the Secretary of State
Claudette Morton, Board of Education

Proponent Testimony:

Doug Mitchell, Representative of the Secretary of State's Office, said he was appearing before the committee to bring to the committee's attention regarding House Bill 11 which would be submitted to the electors of the State of Montana on November 7 of this year, 1989. Due to the fact that this election is scheduled to be a municipal/general election, different from a statewide general election, there will be a fairly significant fiscal impact to that bill. Some money will have to be appropriated to the Secretary of State's Office and some money appropriated to counties to allow them to run this election. He said they support any effort which would bring the electorate of Montana more into the activities of their government and they will do anything they can to run a good election should that happen this year.

Claudette Morton, Executive Secretary for the Board of Public Education, specifically supports House Bill 8. She said that last year the Board studied the issue of equalization payments and how those get from Helena to the schools. They found that there is a lot of problems with the fact that the money goes to the county and often is held there for almost a month before the schools have it in their account. They do see that this is a way for the schools having more money through investment and realizing the money right away to offset debt. They would support this bill.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Representative Cobb stated that he had closed. Chairman Harrington said that, with Representative Cobb's concurrence, these bills would be held as backup bills.

DISPOSITION OF HOUSE BILL 20

Motion: Representative Gilbert made a motion to do pass.

Representative Cohen made a substitute motion to table. No debate on motion to table. Chairman called for a roll call vote.

Motion to table failed, three in favor and fourteen against.

Discussion: Representative Gilbert made a motion to amend House Bill 20. He said the amendment has been handed out to the members of the committee (Exhibit). The amendment would give the same tax break to the businesses presently processing canola oil out of rapeseed. There are two, one at Culbertson and one at Great Falls. He asked the Committee's indulgence to pass this amendment as it is and when it gets to the Senate he said he had talked to Mr. Heiman, the researcher, and also to the people from Butte and they would like to further the amendment to limit it to that portion of their production that is producing canola oil.

Representative Cohen stated that according to Representative Strizich who spoke to the manager of the plant in Great Falls, he said property tax was not a significant factor in their operation and he doesn't see the need for this tax break. According to Representative Steppler the plant in Culbertson is wholly owned by an overseas corporation. Representative Gilbert said he didn't think it made any difference who owned it or whether they think their taxes are too high, this is an equity issue which could result in a lawsuit because of inequitable taxation if this amendment is not passed. He urged the committee to pass the amendment.

Representative Ream asked Representative Gilbert why he wanted to wait until it gets to the Senate to put the additional amendment on. Representative Gilbert replied that it was because they did not have the proper language at this time.

Amendments, Discussion, and Votes: The Chairman asked for a voice vote. Motion carried to adopt the Gilbert amendments.

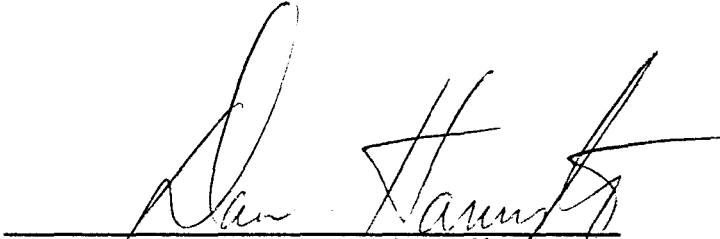
Representative Good stated that she wanted to reiterate that she felt this was bad tax policy but if it was possible to give Butte a break, she hoped the committee did not lose sight of the fact that personal property tax reform is necessary state wide and not continue to do it in a piecemeal manner.

Recommendation and Vote:

Representative Cohen called for a roll call vote and the Chairman granted the request. The motion to "do pass" on House Bill 20, as amended, with 14 members voting yes and 4 no.

ADJOURNMENT

Adjournment At: 9:00 a.m.



REP. DAN HARRINGTON, Chairman

DH/dg

150621a.min

Sanitation

DAILY ROLL CALL

COMMITTEE

DATE

June 21

NAME	PRESENT	ABSENT	EXCUSED
<i>Springton, Chairman</i>	✓		
<i>Ream, V. Chairman</i>	✓		
<i>Chokin</i>	✓		
<i>Discall</i>	✓		
<i>Elliott</i>	✓		
<i>Elleson</i>	✓		
<i>Sialomotto</i>	✓		
<i>Gilbert</i>	✓		
<i>Good</i>	✓		
<i>Grady</i>	✓		
<i>Hanson</i>	✓		
<i>Hoffman</i>	✓		
<i>Kadas</i>	✓		
<i>Kochulce</i>	✓		
<i>O'Keeffe</i>	✓		
<i>Peterson</i>	✓		
<i>Raney</i>	✓		
<i>Rehberg</i>	✓		
<i>Schyle</i>		✓	
<i>Stang</i>	✓		
<i>Stickney</i>	✓		
<i>Susgood</i>	✓		

6/21/89
1:06 P.M.
ja

STANDING COMMITTEE REPORT
HOUSE BILL 20

"An Act Classifying the Equipment and Machinery
Needed to Package Canola Seed Oil
as Class Five Property"

June 21, 1989
Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE
BILL 20 (first reading copy -- white) do pass as amended .

Signed: *Dan Harrington*
Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 6.

Strike: "AND PACKAGE"

2. Page 2, line 7.

Strike: "and packaging"

3. Page 4, line 8.

Strike: "and packaging"

4. Page 4, lines 9 and 10.

Strike: ": (a)"

5. Page 4, line 11.

Strike: "and"

6. Page 4, line 12.

Strike: ";"

Insert: ", or engages in any one or more of those processes."

7. Page 4, lines 13 through 17.

Strike: subsections (b), (c), and (d) in their entirety.

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 6/21/89 BILL NO. 20 NUMBER #1

NAME

AYE

NAY

[illegible]

TALLY

3

14

Donna Grace
SECRETARY

3-14
Karl Starnitz
CHAIRMAN

MOTION: Representative Cohen made a motion to table the bill.

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 6/21/89 BILL NO. 20 NUMBER #2

NAME	AYE	NAY
		✓
Ben Cohen		
Jerry Driscoll	✓	
Jim Elliott		✓
Orval Ellison		✓
Leo Giacometto		
Bob Gilbert	✓	
Susan Good	✓	
Ed Grady		
Marian Hanson		
Robert Hoffman		✓
Mike Kadas		
Francis Koehnke	✓	
Mark O'Keefe	✓	
John Patterson	✓	
Bob Raney	✓	
Dennis Rehberg	✓	
Ted Schye	✓	
Barry Stang	✓	
Jessico Stickney	✓	
Chuck Swysgood	✓	
Bob Ream	✓	
Dan Harrington	✓	

TALLY

Sonma Grace
SECRETARY

Alan Hampton
CHAIRMAN

MOTION: Motion to pass HB 20 as amended.

HOUSE BILL NO. 20

INTRODUCED BY DAILY, QUILICI, PAVLOVICH, LYNCH,
D. BROWN, JACOBSON, HARRINGTON, MENAHAN, KILPATRICK,
DRISCOLL, ADDY, KIMBERLEY, WHALEN, REHBERG, HANNAH,
RAMIREZ, PATTERSON, MCDONOUGH, GLASER, STIMATZ,
BLAYLOCK, KEATING, BISHOP, HAGER, REGAN,
SIMON, COMPTON, ROTH, PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLASSIFY AS CLASS
FIVE PROPERTY THE EQUIPMENT AND MACHINERY USED TO PROCESS
AND--PACKAGE CANOLA SEED OIL; AMENDING SECTION 15-6-135, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description --
taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural
electrical and cooperative rural telephone associations
organized under the laws of Montana, except property owned
by cooperative organizations described in subsection (1)(b)
of 15-6-137;

(b) air and water pollution control equipment as
defined in this section;

(c) new industrial property as defined in this

section;

(d) any personal or real property used primarily in
the production of gasohol during construction and for the
first 3 years of its operation;

(e) all land and improvements and all personal
property owned by a research and development firm, provided
that the property is actively devoted to research and
development;

(f) machinery and equipment used in electrolytic
reduction facilities;

(g) machinery and equipment used in canola seed oil
processing and--packaging facilities PROVIDED THAT THE
OPERATORS OF SUCH FACILITIES EMPLOY A MINIMUM OF 25
FULL-TIME EMPLOYEES AND LOCATE IN THE STATE OF MONTANA AFTER
[THE EFFECTIVE DATE OF THIS ACT].

(2) (a) "Air and water pollution equipment" means
facilities, machinery, or equipment used to reduce or
control water or atmospheric pollution or contamination by
removing, reducing, altering, disposing, or storing
pollutants, contaminants, wastes, or heat. The department of
health and environmental sciences shall determine if such
utilization is being made.

(b) The department of health and environmental
sciences' determination as to air and water pollution
equipment may be appealed to the board of health and

1 environmental sciences and may not be appealed to either a
2 county tax appeal board or the state tax appeal board.
3 However, the appraised value of the equipment as determined
4 by the department of revenue may be appealed to the county
5 tax appeal board and the state tax appeal board.

6 (3) "New industrial property" means any new industrial
7 plant, including land, buildings, machinery, and fixtures,
8 used by new industries during the first 3 years of their
9 operation. The property may not have been assessed within
10 the state of Montana prior to July 1, 1961.

11 (4) (a) "New industry" means any person, corporation,
12 firm, partnership, association, or other group that
13 establishes a new plant in Montana for the operation of a
14 new industrial endeavor, as distinguished from a mere
15 expansion, reorganization, or merger of an existing
16 industry.

17 (b) New industry includes only those industries that:

18 (i) manufacture, mill, mine, produce, process, or
19 fabricate materials;

20 (ii) do similar work, employing capital and labor, in
21 which materials unserviceable in their natural state are
22 extracted, processed, or made fit for use or are
23 substantially altered or treated so as to create commercial
24 products or materials; or

25 (iii) engage in the mechanical or chemical

1 transformation of materials or substances into new products
2 in the manner defined as manufacturing in the 1972 Standard
3 Industrial Classification Manual prepared by the United
4 States office of management and budget.

5 (5) New industrial property does not include:

6 (a) property used by retail or wholesale merchants,
7 commercial services of any type, agriculture, trades, or
8 professions;

9 (b) a plant that will create adverse impact on
10 existing state, county, or municipal services; or

11 (c) property used or employed in any industrial plant
12 that has been in operation in this state for 3 years or
13 longer; or

14 (d) property otherwise classified as class five
15 property.

16 (6) "Canola seed oil processing and--packaging
17 facility" means a facility that:-

18 {a}{A} extracts oil from canola seeds, refines the
19 crude oil to produce edible oil, and formulates and packages
20 the edible oil into food products, OR ENGAGES IN ANY ONE OR
21 MORE OF THOSE PROCESSES; AND

22 (B) EMPLOYS AT LEAST 25 EMPLOYEES IN A FULL-TIME
23 CAPACITY.

24 {b}--refines-crude-canola-oil-to-produce-edible-oil-and
25 formulates-and-packages-the-edible-oil-into--food--products,

1 ~~{c}--refines-crude-canola-oil-to-produce-edible-oil;-or~~
2 ~~{d}--formulates--and--packages--edible--canola-oil-into~~
3 ~~food-products.~~

4 {6}{7} Class five property is taxed at 3% of its
5 market value."

6 NEW SECTION. SECTION 2. SEVERABILITY. IT IS THE
7 INTENT OF THE LEGISLATURE THAT [THIS ACT] IS VOID UNLESS A
8 NEW FACILITY EMPLOYING AT LEAST 25 EMPLOYEES IN THE
9 PROCESSING OF CANOLA SEED OIL LOCATES IN THE STATE OF
10 MONTANA AFTER [THE EFFECTIVE DATE OF THIS ACT].

11 NEW SECTION. Section 3. Effective date. [This act] is
12 effective on passage and approval.

-End-

MINUTES

MONTANA SENATE
51st LEGISLATURE - SPECIAL SESSION
COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, Chairman, on June 24,
1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator
Norman, Senator Eck, Senator Halligan, Senator Bishop,
Senator Walker, Senator Gage, Senator Mazurek, Senator
Crippen

Members Excused: Senator Harp, Senator Severson

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 20

Presentation and Opening Statement by Sponsor:

Representative Daily, District 69, sponsor, said the bill is
designed to lower the personal property tax on
equipment used to process canola seed oil from Class 8
to Class 5. The reclassification will drop the tax
rate from 11% to 3%.

List of Testifying Proponents and What Group they Represent:

Don Peoples, CEO, Butte-Silverbow
Evan Barrett, Executive Director, Butte Local
Development Corporation
Senator Jerry Noble, District 21
Senator Larry Stimatz, District 35
Senator J.D. Lynch, District 34
Jim Tutweiler, Montana Chamber of Commerce
Gary Willis, Montana Power
Riley Johnson, National Federation of Independent
Business

List of Testifying Opponents and What Group They Represent:

None

Others Wishing to Testify:

Senator Larry Tveit, District 11

Testimony:

Don Peoples, CEO, Butte-Silverbow, said Butte is an ideal location for the canola plant. The labor force is at hand and transportation is good with two freeways, Burlington Northern and Montana Rail Link accessing the city. The necessary infrastructure is in place which is a definite draw for the plant. However, the real problem is taxation. The current rate effectively drops Montana out of competition. The Montana rate is three times higher than Idaho, and four and a half times higher than Nevada. This disparity could mean as much as \$600,000 difference a year in the taxes paid by the plant.

Mr. Peoples said 300 jobs will be created at the plant with another 150 in related employment. Canola oil is good for the economy as it is a value added commodity and well diversified.

Evan Barrett, Executive Director, Butte Local Development Corporation, said taxes in Montana are a disincentive and although he recognizes this is a very specific form of tax relief, this project needs to be developed. The effective long term property tax rate in Montana is 4.33% as compared to Idaho at 1.3% and Nevada at less than 1%. Lowering the rate would still leave Butte at \$40,000 above Boise and \$140,000 above Reno.. However, that is still a competitive range. He said the need for the reduction is immediate - without the decrease the chances of securing the plant are 1 in 10; with the decrease, Butte has a 75%-80% chance of being chosen.

Canola seed is grown on a plant, harvested, crushed, and processed for use in salad oils, shortening and margarine. Mr. Barrett said this is a "top drawer" company which uses Canadian canola as well as some from norther Montana. He pointed out canola can be a real boost to the Montana agriculture community as an alternative crop well suited to Montana production.

Senator Jerry Noble, District 21, said the bill once again points out the inequities in tax law in Montana and the need to be competitive if we are ever going to attract any new business development to the state.

Senator Larry Stimatz, District 35, said this is a substantial industry and Montana has to be competitive in pursuit of it. He urged the committee to give favorable consideration to the bill.

Senator J.D. Lynch, District 34, said he recently passed the huge Anheuser Busch plant in Fort Collins, Colorado, and was disheartened to think it could have been located in Montana. He said the canola plant will provide upwards of 300 jobs for Montana with a substantial amount of other related development. He urged the committee to look beyond the local issue and make the change as first step in economic development for the state as a whole.

Jim Tutweiler, Montana Chamber of Commerce, expressed agreement with the Peoples and Barrett testimony. He said the Chamber is committed to extending this opportunity to all business in the state. He felt it is most imperative to seize this opportunity and begin to positively impact the economic development attitude the state presents to those businesses interested in locating in Montana.

Gary Willis, Montana Power, said this plant is estimated to use one billion cubic feet of gas and a sizeable electric load per year. This amount of usage has the effect of lowering individual rates. He noted they have had a full time economic development employee working on this project for the past five months. He said he realized this is a localized project, but that Montana Power is supportive, and will continue to be supportive, of projects of this nature in other communities when they arise.

Riley Johnson, National Federation of Independent Business, said there is a word of caution that needs to be expressed. The bill inherently discriminates against other small businesses and care needs to be taken to avoid stepping on other toes. He said the Federation does support the bill with the hope the same incentives can be extended to other businesses.

Others Wishing to Testify:

Senator Larry Tveit, District 11, expressed concern with the tax breaks for specific industries. In his district, he has a small canola plant which will benefit from this bill. However, right next door to it is a large feed lot which will get no tax break. He said this approach breeds various problems, one of which is the impact on the school tax base. The bill renews the need for comprehensive tax reform and the need to lower business taxes across the board to make the economic base more attractive.

Questions From Committee Members:

Senator Hager said canola meal is a by product of the oil processing and wondered what will be done with it.

Mr. Peoples replied it is currently being left in Canada and marketed as feed from there. He said this would be another plus for agriculture in the state as it can be grown here and the meal sold for livestock feed.

Senator Walker asked if the plant in Great Falls which processes canola seed, along with three other seeds, would be included in the tax break in this bill.

Steve Bender, Deputy Director, Department of Revenue, said unless it is specifically excluded it will be subject to the tax break.

Closing by Sponsor:

Representative Daily closed by saying the Columbia Falls aluminum plant expanded its operation and developed 1000 jobs as a result of lowering their tax rate. He said there is a need for this in Butte as well as the whole state. He reminded the committee there is only a 10% chance of securing the plant without this legislation. He urged the committee to give the bill a 75% chance.

HEARING ON SENATE BILL 22

Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, said this is a philosophy bill. You are either in favor of capping, permanently, the

TAXATION

COMMITTEE

50st LEGISLATIVE SESSION -- 1989Date 6/24/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE			
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP			X
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON			X
SENATOR WALKER	X		

Each day attach to minutes.

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppc
Ed. Buck Boles	MONTANA CHAMBER	SB22 HB20	X	X
TOM HOPGOOD	MT ASSOC REALTORS	SB22	-	
Tucker Hill	Champion Int'l	SB22	X	
Kerry Jack	MT Stockgrowers ^(Farm Bureau & WIFE)	SB22	✓	
GARY SCHWEDS	Re Biller Cand Room	SB22	✓	
BARB TURNER	^{FLTHED} Dealers Association	SB22	✓	
Ray Thompson	SEMITOOC	SB22	X	
Don Allen	mt. wood Product Pro.	SB22	X	
Gordon Morris	Kellogg Production	SB22	X	
Art Seiler			X	
Dennis Burr	MON. TAXPAYERS ASSN	SB22	✓	
Kerry Webb	Jimmy H. H. H.	SB20	-	✓
Jim Morker	MT. Coal Council	SB22	Amend	
Jim Tutwiler	MT CHAMBER	SB22	✓	
Pete Johnson	W F I B	SB22	✓	
Nigron Waterman	Mt. School Bds Assoc	SB22	✓	
Bob Durkee	MTA - Helena	SB22	✓	
Ken Williams	Ertech	SB-22	Amend	
CHAS BROOKS (Rep. by AN Bales)	MONTANA RETAIL ASSN	SB22	X	
Gordon Morris	MACO	SB22		

HOUSE BILL NO. 20

INTRODUCED BY DAILY, QUILICI, PAVLOVICH, LYNCH,
D. BROWN, JACOBSON, HARRINGTON, MENAHAN, KILPATRICK,
DRISCOLL, ADDY, KIMBERLEY, WHALEN, REHBERG, HANNAH,
RAMIREZ, PATTERSON, MCDONOUGH, GLASER, STIMATZ,
BLAYLOCK, KEATING, BISHOP, HAGER, REGAN,
SIMON, COMPTON, ROTH, PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLASSIFY AS CLASS FIVE--PROPERTY--THE--EQUIPMENT-AND-MACHINERY-USED-TO-PROCESS AND-PACKAGE-CANOLA-SEED-OIL; AMENDING SECTION 15-6-135, MCA, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." "AN ACT REDUCING TO A SINGLE RATE THE PROPERTY TAX RATE ON CERTAIN PERSONAL PROPERTY; COMBINING PERSONAL PROPERTY CLASSES; REVISING COUNTY CLASSIFICATIONS AND DEBT AND LEVY LIMITATIONS OF LOCAL GOVERNMENTS, INCLUDING SCHOOL DISTRICTS; CLASSIFYING AS CLASS FIVE PROPERTY THE EQUIPMENT AND MACHINERY USED TO PROCESS CANOLA SEED OIL; IMPOSING A PRIVILEGE TAX ON THE EXTRACTION OF COAL AND ALLOCATING THE MONEY; PROVIDING A PRIVILEGE TAX CREDIT; PROVIDING WATER BOND BACKING; REDUCING THE SEVERANCE TAX ON COAL TO 1 PERCENT; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101,

15-6-135, 15-6-137, 15-6-138, 15-10-402, 15-24-1102, 15-24-1103, 15-35-103, 19-11-503, 19-11-504, 20-9-343, 20-9-406, 20-9-407, AND 20-9-502, MCA; REPEALING SECTIONS 15-6-139, 15-6-140, AND 15-6-146, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 12] requires the department of revenue to adopt rules to implement a privilege tax on extraction of coal. It is the intent of the legislature that the department adopt rules that address, at a minimum, reporting forms to be used by persons required to pay the privilege tax on coal and other rules as may be necessary to implement and administer the tax on coal.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1.** Imposition and rate of privilege tax on coal. The rate of the privilege tax on coal is as follows:

(1) After June 30, 1989, and before July 1, 1990:

1	Heating quality	Surface	Underground
2	(Btu per pound	Mining	Mining
3	of coal):		
4	Under 7,000	16% of contract	2% of contract
5		sales price	sales price
6	7,000 and over	24% of contract	3% of contract
7		sales price	sales price
8	(2) After June 30, 1990, and before July 1, 1991:		
9	Heating quality	Surface	Underground
10	(Btu per pound	Mining	Mining
11	of coal):		
12	Under 7,000	12% of contract	2% of contract
13		sales price	sales price
14	7,000 and over	19% of contract	3% of contract
15		sales price	sales price
16	(3) After June 30, 1991:		
17	Heating quality	Surface	Underground
18	(Btu per pound	Mining	Mining
19	of coal):		
20	Under 7,000	9% of contract	2% of contract
21		sales price	sales price
22	7,000 and over	14% of contract	3% of contract
23		sales price	sales price
24	NEW SECTION. Section 2. Definitions. As used in		
25	[sections 1 through 18], the following definitions apply:		

1 (1) "Agreement" means a signed contract that is valid
2 under Montana law between a coal mine operator and a
3 purchaser or broker for the sale of coal that is produced in
4 Montana.

5 (2)(a) "Base consumption level" for a purchaser, except
6 as provided in subsection (2)(b), applies only for the term
7 of an agreement in effect as of December 31, 1984, and means
8 the lesser of:

9 (i) the volume of coal purchased during calendar year
10 1986 from all Montana coal mine operators; or

11 (ii) the greater of:

12 (A) the arithmetic average volume of coal purchased
13 during calendar years 1983 and 1984 from all Montana coal
14 mine operators; or

15 (B) 90% of the maximum tonnage provided for in any
16 agreement executed prior to January 1, 1985, for which the
17 highest scheduled minimum quantity of coal stipulated by the
18 terms of the agreement as they existed on January 1, 1985,
19 has not been purchased at any time during the term of the
20 agreement, plus the arithmetic average volume of coal
21 purchased during calendar years 1983 and 1984 from all
22 Montana coal mine operators under all other agreements.

23 (b) If the volume calculated in subsection (2)(a)(i)
24 is less than one-third of the volume calculated in
25 subsection (2)(a)(ii), the base consumption level is the

1 volume calculated in subsection (2)(a)(ii).

2 (3) (a) Except as provided in subsection (3)(b), "base
3 production level" for a coal mine operator applies only for
4 the term of an agreement in effect as of December 31, 1984,
5 and means the lesser of:

6 (i) the arithmetic average volume of coal produced in
7 Montana and sold to a purchaser in calendar years 1983 and
8 1984; or

9 (ii) the volume of coal produced in Montana and sold to
10 a purchaser in 1986.

11 (b) If the amount calculated in subsection (3)(a)(ii)
12 is less than one-third of the amount calculated in
13 subsection (3)(a)(i), the base production level is the
14 amount calculated in subsection (3)(a)(i).

15 (4) "Broker" means any person who resells Montana
16 coal.

17 (5) "Contract sales price" means either the price of
18 coal extracted and prepared for shipment f.o.b. mine,
19 excluding that amount charged by the seller to pay taxes
20 paid on production, or a price imputed by the department
21 under [section 6]. Contract sales price includes all
22 royalties paid on production, no matter how such royalties
23 are calculated. However, with respect to royalties paid to
24 the government of the United States, the state of Montana,
25 or a federally recognized Indian tribe, the contract sales

1 price includes only:

2 (a) for quarterly periods ending on and after
3 September 30, 1984, 15 cents per ton plus 75% of the
4 difference between 15 cents per ton and the amount of such
5 federal, state, and tribal government royalties actually
6 paid;

7 (b) for quarterly periods ending on and after
8 September 30, 1985, 15 cents per ton plus 50% of the
9 difference between 15 cents per ton and the amount of such
10 federal, state, and tribal government royalties actually
11 paid;

12 (c) for quarterly periods ending on and after
13 September 30, 1986, 15 cents per ton plus 25% of the
14 difference between 15 cents per ton and the amount of such
15 federal, state, and tribal government royalties actually
16 paid; and

17 (d) for quarterly periods ending on and after
18 September 30, 1987, 15 cents per ton.

19 (6) "Department" means the department of revenue.

20 (7) "Energy conversion process" includes any process
21 by which coal in the solid state is transformed into slurry,
22 gas, electric energy, or any other form of energy.

23 (8) "Incremental production" means that quantity of
24 coal produced annually by a coal mine operator and sold to a
25 qualified purchaser that exceeds the base production level

of the coal mine operator for that purchaser, but only to the extent the quantity of coal exceeds that purchaser's base consumption level from all Montana producers.

(9) "Produced" means extracted from the earth.

(10) "Purchaser" means a person who purchases or contracts to purchase Montana coal directly from a coal mine operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not a purchaser under the provisions of [sections 1 through 18].

(11) "Qualified purchaser" means a purchaser whose purchases of Montana coal in any given year exceed his base consumption level. A purchaser of Montana coal who enters into a coal agreement with another purchaser or a broker that causes a reduction in the base consumption level of a purchaser is not a qualified purchaser.

(12) "Strip mining" is defined in 82-4-203 and includes "surface mining".

(13) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole

or in part from the sale of coal, or any license fee.

(14) "Ton" means 2,000 pounds.

(15) "Underground mining" means a coal mining method utilizing shafts and tunnels and as further defined in 82-4-203.

NEW SECTION. Section 3. Quarterly statement and payment of tax. Each coal mine operator shall compute the privilege tax due on each quarter-year's worth of production on forms prescribed by the department. The statement shall indicate the tonnage produced, the average Btu value of the production, the contract sales price received for the production, and such other information as the department may require. Each coal mine operator shall provide a statement of the tons of coal sold to each purchaser for the quarter. The completed form in duplicate, with the tax payment, must be delivered to the department not later than 30 days following the close of the quarter. The form must be signed by the operator if the operator is an individual or by an officer of the coal mine operator if the operator is a business entity. A person operating more than one coal mine in this state may include all of his mines in one statement. The department may grant a reasonable extension of time for filing statements and payment of taxes due upon good cause shown therefor.

NEW SECTION. Section 4. Penalty for delinquent tax.

1 The department shall add to the amount of all delinquent
 2 privilege taxes a penalty of 10% of the delinquent amount
 3 plus interest at the rate of 1% per month or fraction
 4 thereof computed on the total amount of privilege tax and
 5 penalty. Interest must be computed from the date the
 6 privilege tax was due to the date of payment. The department
 7 shall mail to the person required to file a quarterly report
 8 and pay any privilege tax, a letter setting forth the amount
 9 of tax, penalty, and interest due, and the letter must
 10 further contain a statement that if payment is not made, a
 11 warrant for distraint may be filed. The penalty amount may
 12 be waived by the department if reasonable cause for the
 13 failure or neglect to file the quarterly statement is
 14 provided to the department.

15 NEW SECTION. Section 5. Annual testing of samples.

16 The Montana state bureau of mines and geology shall test
 17 coal production subject to [sections 1 through 18] and may
 18 make rules governing the collection of test data. A person
 19 subject to [sections 1 through 18] shall submit to the
 20 bureau on or before August 1 each year a sample of mine-run,
 21 "as is" coal from each mine producing that year. Additional
 22 samples must be submitted at the request of the bureau. The
 23 bureau shall compute the Btu per pound of each sample
 24 received and forward this information to the department
 25 prior to September 1 each year.

1 NEW SECTION. Section 6. When value of coal may be
 2 imputed -- procedure. (1) The department may or shall at the
 3 request of the taxpayer impute a value to the coal that
 4 approximates market value f.o.b. mine in a case where:

5 (a) the operator of a coal mine is using the produced
 6 coal in an energy-conversion or other manufacturing process;

7 (b) the operator of a coal mine refines the coal by
 8 drying, cleaning, or other processing designed to improve
 9 the quality of the coal;

10 (c) a person sells coal under a contract that is not
 11 an arm's-length agreement; or

12 (d) a person neglects or refuses to file a statement
 13 under 15-23-701 or a statement and tax return under
 14 [sections 1 through 18].

15 (2) For purposes of subsection (1)(b), "market value
 16 f.o.b. mine" means the value of the coal subsequent to
 17 primary and secondary crushing but prior to drying,
 18 cleaning, or other processing.

19 (3) When imputing value, the department may apply the
 20 factors used by the federal government under 26 U.S.C.,
 21 section 613, or that provision as it may be labeled or
 22 amended, in determining gross income from mining or the
 23 department may apply any other or additional criteria it
 24 considers appropriate. Each subject taxpayer shall upon
 25 request by the department furnish a copy of its federal

income tax return, with any amendments, filed for the year in which the value of coal is being imputed and copies of the contracts under which it is selling coal at the time. When the department's estimate of market value is contested in any proceeding, the burden of proof is on the contesting party.

NEW SECTION. Section 7. Disposal of privilege taxes.

(1) Privilege taxes collected under [sections 1 through 12] must be allocated according to the provisions in effect on the date the tax is due.

(2) Privilege taxes collected under the provisions of [sections 1 through 12] are allocated as follows:

(a) 12% to the highway reconstruction trust fund account in the state special revenue fund;

(b) 7.6% to the state special revenue fund to the credit of the education trust fund account;

(c) 6.65% to the credit of the local impact account;

(d) 3.8% to the state special revenue fund for state equalization aid to public schools of the state;

(e) 0.38% to the state special revenue fund to the credit of the county land planning account;

(f) 0.475% to the credit of the renewable resource development bond fund;

(g) 1.9% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of

art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund must be appropriated as follows:

(i) one-third for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) two-thirds for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102;

(h) 0.38% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(i) 0.19% to the state special revenue fund for conservation districts;

(j) 0.475% to the debt service fund type to the credit of the water development debt service fund;

(k) 0.76% to the state special revenue fund for the Montana Growth Through Agriculture Act;

(l) to the coal privilege tax bond fund created by [section 17], 50% of the total privilege tax collections. The state treasurer shall from time to time transfer to the general fund all money in the coal privilege tax bond fund in excess of the amount necessary to meet all principal and interest payments on bonds payable from the coal privilege

1 tax bond fund and to satisfy the requirements of the general
2 resolution pursuant to which the bonds were issued.

3 (m) all other revenues from privilege taxes collected
4 under the provisions of [sections 1 through 12] to the
5 credit of the general fund of the state.

6 NEW SECTION. **Section 8. Deficiency assessment --**

7 hearing -- interest. (1) When the department determines that
8 the amount of tax due is greater than the amount disclosed
9 by a return, it shall mail to the taxpayer a notice of the
10 additional tax proposed to be assessed. Within 30 days after
11 mailing of the notice, the taxpayer may file with the
12 department a written protest against the proposed additional
13 tax, setting forth the grounds upon which the protest is
14 based, and may request in his protest an oral hearing or an
15 opportunity to present additional evidence relating to his
16 tax liability. If no protest is filed, the amount of the
17 additional tax proposed to be assessed becomes final upon
18 the expiration of the 30-day period. If a protest is filed,
19 the department shall reconsider the proposed assessment and,
20 if the taxpayer has so requested, shall grant the taxpayer
21 an oral hearing. After consideration of the protest and the
22 evidence presented at any oral hearing, the department's
23 action upon the protest is final when it mails notice of its
24 action to the taxpayer.

25 (2) When a deficiency is determined and the tax

1 becomes final, the department shall mail a notice and demand
2 for payment to the taxpayer. The tax is due and payable at
3 the expiration of 10 days from the date of the notice and
4 demand. Interest on any deficiency assessment bears interest
5 until paid at the rate of 1% a month or fraction thereof,
6 computed from the original due date of the return.

7 NEW SECTION. **Section 9. Credit for overpayment --**

8 interest on overpayment. (1) If the department determines
9 that the amount of tax, penalty, or interest due for any
10 year is less than the amount paid, the amount of the
11 overpayment must be credited against any tax, penalty, or
12 interest then due from the taxpayer and the balance refunded
13 to the taxpayer or its successor through reorganization,
14 merger, or consolidation or to its shareholders upon
15 dissolution.

16 (2) Except as provided in subsection (3), interest
17 must be allowed on overpayments at the same rate as is
18 charged on deficiency assessments provided in [section 8]
19 due from the due date of the return or from the date of
20 overpayment (whichever date is later) to the date the
21 department approves refunding or crediting of the
22 overpayment.

23 (3) (a) Interest may not accrue during any period the
24 processing of a claim for refund is delayed more than 30
25 days by reason of failure of the taxpayer to furnish

information requested by the department for the purpose of verifying the amount of the overpayment.

(b) No interest may be allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law may not be considered an overpayment with respect to which interest is allowable.

NEW SECTION. Section 10. Statute of limitations. (1)

Except as otherwise provided in this section, no deficiency may be assessed or collected with respect to the year for which a return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the date the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered as filed on the last day. If the taxpayer, before the expiration of the period prescribed for assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) No refund or credit may be allowed or paid with

respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period the taxpayer files a claim therefor or the department has determined the existence of the overpayment and has approved the refund or credit thereof. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department.

NEW SECTION. Section 11. Penalties for neglect or false statement. A person who fails, neglects, or refuses to file any statement required under [sections 1 through 18] or who makes a false statement commits a misdemeanor. A person convicted under this section shall be fined not to exceed \$1,000 or be imprisoned in the county jail for any term not

1 to exceed 6 months, or both.

2 NEW SECTION. Section 12. Rulemaking authority. The
3 department may adopt rules necessary for the taxation of
4 property under [sections 1 through 18].

5 NEW SECTION. Section 13. New coal production
6 incentive tax credit allowed -- application limited. (1) A
7 coal mine operator is entitled to a new coal production
8 incentive tax credit against the tax imposed under [section
9 1] of:

10 (a) 40% for incremental production sold after June 30,
11 1988, and before July 1, 1990; and

12 (b) 25% for incremental production sold after June 30,
13 1990, and before July 1, 1991.

14 (2) A coal mine operator is entitled to a new coal
15 production incentive tax credit against the tax imposed
16 under [section 1] on incremental production for the entire
17 term of an agreement, except as provided in subsection (3),
18 and is entitled to adjustment of the base consumption level
19 and the base production level, as defined in [section 2], if
20 the incremental production resulted from coal purchases
21 under:

22 (a) an existing agreement that was extended after
23 December 31, 1984, and before July 1, 1991, for at least a
24 5-year period; or

25 (b) a new agreement that was executed after December

1 31, 1984, and before July 1, 1991.

2 (3) No credit may be claimed for coal produced prior
3 to January 1, 1985.

4 NEW SECTION. Section 14. Calculation and application
5 of credit. (1) The amount of new coal production incentive
6 tax credit that a coal mine operator may claim against the
7 tax imposed in [section 1] is calculated by:

8 (a) determining the incremental production for each of
9 his qualified purchasers that was produced during a calendar
10 year;

11 (b) distributing the incremental production among the
12 quarters in the calendar year in the same proportion as the
13 total volume of coal sold each quarter to each respective
14 purchaser and summing the amounts for all purchasers to
15 determine the coal mine operator's incremental production
16 for each quarter;

17 (c) determining the arithmetic average privilege tax
18 per ton calculated prior to application of the credit on
19 coal sold to each qualified purchaser each quarter during
20 the calendar year;

21 (d) multiplying the incremental production for a
22 quarter for a purchaser by the average privilege tax per ton
23 for that purchaser and multiplying the total by the
24 appropriate percentage as provided in [section 13] for each
25 quarter; and

(e) totaling the amount so calculated for all qualified purchasers for all four quarters of the calendar year.

(2) When filing the quarterly statement required in [section 3], a coal mine operator may claim against the coal privilege tax calculated for that quarter an amount equal to 25% of the new coal production incentive tax credit allowed on incremental production that occurred during the previous calendar year.

(3) If in any calendar year a purchaser exceeds his base consumption level and he has purchased from more than one Montana coal mine operator during the year, the credit on the incremental production must be divided among the operators on a pro rata basis. To determine each coal mine operator's pro rata share of the tax credit, each operator shall divide his incremental production by the sum of all coal mine operators' incremental production for that purchaser and multiply the quotient by the purchases in excess of the base consumption level for that purchaser.

(4) Neither a coal mine operator nor a purchaser is entitled to a direct payment for the credit allowed in [section 13]. A credit terminates if not taken during the year following the year in which the incremental production occurred.

(5) Each coal mine operator shall reduce the delivered

price of coal sold to each qualified purchaser by an amount equal to the credit received on incremental production sold to that purchaser.

NEW SECTION. **Section 15. Reporting requirements for credit -- duty of department.** (1) Every Montana coal mine operator shall provide to the department:

(a) on or before September 30, 1989, a list showing the amount of coal produced and sold in calendar years 1983 and 1984 to every purchaser, including purchasers who obtained coal from the coal mine operator through a broker; and

(b) with the quarterly statement required by [section 3], a list of the number of tons produced and sold to every purchaser during the quarter and the privilege tax calculated prior to the application of the credit on these tons.

(2) To be eligible for the tax credit provided for in [section 13], a coal mine operator shall furnish to the department:

(a) on or before September 30, 1989, copies of all existing coal sales agreements;

(b) with the quarterly statement required by [section 3], a copy of any new coal sales agreements or extensions of existing agreements executed during the quarter;

(c) on or before January 31 of each year:

(i) a list of incremental production for all qualified purchasers during the previous calendar year;

(ii) a written statement from each qualified purchaser verifying the volume of coal purchased in that year from all Montana coal mine operators; and

(iii) the necessary information on incremental production purchased through a broker to verify that the incremental production did not cause a reduction in the base consumption level of any other purchaser of Montana coal; and

(d) any other data, reports, evidence, or production data that may be necessary for the department to determine whether a purchaser is a qualified purchaser and the base consumption level for each purchaser.

(3) By January 1, 1990, the department shall prepare and publish for informational purposes only an unaudited compilation of the base production level for each coal mine operator and a compilation of the base consumption level for each purchaser.

(4) Any coal mine operator or purchaser may, for the purpose of determining the eligibility of coal production for the new production incentive tax credit, file with the department a petition for a declaratory ruling as provided in 2-4-501. The department shall issue a ruling on the petition within 90 days of the date the petition was filed

with the department.

NEW SECTION. **Section 16. Returns and taxpayer information open to public inspection -- certain exceptions.**

(1) All information filed with the department in accordance with [section 15] is public record and open to public inspection, except the information required under [section 15(1)(b)] and the coal sales agreements specified in [section 15(2)(a) and (2)(b)].

(2) Except during proceedings before the state tax appeal board pursuant to 15-2-201, the information required under [section 15(1)(b)] and the coal sales agreements specified in [section 15(2)(a) and (2)(b)] are open to inspection only upon the order of the governor, under rules to be prescribed by the department, or upon order of a court of competent jurisdiction.

NEW SECTION. **Section 17. Creation of coal privilege tax bond fund -- pledge of tax -- authorization of coal privilege tax bonds.** (1) There is a coal privilege tax bond fund in which must be deposited the amount set forth in [section 7(2)(1)].

(2) The money deposited in the coal privilege tax bond fund is pledged to and secures the payment of principal of and interest on all state of Montana coal severance tax bonds issued pursuant to Title 17, chapter 5, part 7, and coal privilege tax bonds authorized by this section.

(3) The board of examiners, upon approval of the legislature as provided in Title 17, chapter 5, part 7, may issue and sell coal privilege tax bonds for the purposes and subject to the terms and conditions for the issuance of coal severance tax bonds set forth in Title 17, chapter 5, part 7.

(4) All bonds issued pursuant to Title 17, chapter 5, part 7, after [the effective date of this section], including those bonds authorized to be issued by House Bill 778, Laws of 1989, are called "state of Montana coal privilege tax bonds", and the money in the coal privilege tax bond fund is pledged to pay the principal of and interest on the bonds.

(5) For the purposes of Title 17, chapter 5, part 7, deposits into the coal privilege tax bond fund must be treated as deposits into the coal severance tax bond fund.

NEW SECTION. Section 18. Continued tax deposit. The legislature shall provide for the continued assessment, levy, and collection of the privilege tax and for the deposit of that revenue into the coal privilege tax bond fund that, together with other revenue, assets, and money as may be deposited to one or more special bond funds pledged for the benefit of the coal severance tax bonds or the coal privilege tax bonds, will be sufficient to produce an amount that is necessary to pay, when due, the annual debt service

charges on all outstanding bonds payable from the coal privilege tax bond fund.

Section 19. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the several counties of this state shall be classified according to that percentage of the true and full valuation of the property therein upon which the tax levy is made, except for vehicles subject to taxation under 61-3-504(2), as follows:

(a) first class--all counties having such a taxable valuation of \$50 million or over;

(b) second class--all counties having such a taxable valuation of more than \$30 million and less than \$50 million;

(c) third class--all counties having such a taxable valuation of more than \$20 million and less than \$30 million;

(d) fourth class--all counties having such a taxable valuation of more than \$15 million and less than \$20 million;

(e) fifth class--all counties having such a taxable valuation of more than \$10 million and less than \$15 million;

(f) sixth class--all counties having such a taxable valuation of more than \$5 million and less than \$10 million;

(g) seventh class--all counties having such a taxable valuation of less than \$5 million.

(2) As used in this section, taxable valuation means the taxable value of taxable property in the county as of the time of determination plus:

(a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and trucks having a rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;

(c) the amount of interim production and new production taxes levied, as provided in 15-23-607, divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%; and

(d) the amount of value represented by new production exempted from tax as provided in 15-23-612; and

(e) 6% of the total taxable value of the county on December 31, 1990."

Section 20. Section 7-3-1321, MCA, is amended to read:

"7-3-1321. Authorization to incur indebtedness -- limitation. (1) The consolidated municipality may borrow

money or issue bonds for any municipal purpose to the extent and in the manner provided by the constitution and laws of Montana for the borrowing of money or issuing of bonds by counties and cities and towns.

(2) The municipality may not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding ~~28%~~ 29.8% of the taxable value of the taxable property therein, as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness. All warrants, bonds, or obligations in excess of such amount given by or on behalf of the municipality shall be void."

Section 21. Section 7-6-2211, MCA, is amended to read:

"7-6-2211. Authorization to conduct county business on a cash basis. (1) In case the total indebtedness of a county, lawful when incurred, exceeds the limit of ~~23%~~ 24.5% established in 7-7-2101 by reason of great diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the reasonable and necessary current expenses of the county out of the cash in the county treasury derived from its current revenue and under such restrictions and regulations as may be imposed by the board of county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

(2) Nothing in this section restricts the right of the

board to make the necessary tax levies for interest and sinking fund purposes, and nothing in this section affects the right of any creditor of the county to pursue any remedy now given him by law to obtain payment of his claim."

Section 22. Section 7-6-4121, MCA, is amended to read:

"7-6-4121. Authorization to conduct municipal business on a cash basis. (1) In case the total indebtedness of a city or town has reached ~~17%~~ 18.1% of the total taxable value of the property of the city or town subject to taxation, as ascertained by the last assessment for state and county taxes, the city or town may conduct its affairs and business on a cash basis as provided by subsection (2).

(2) (a) Whenever a city or town is conducting its business affairs on a cash basis, the reasonable and necessary current expenses of the city or town may be paid out of the cash in the city or town treasury and derived from its current revenues, under such restrictions and regulations as the city or town council may by ordinance prescribe.

(b) In the event that payment is made in advance, the city or town may require a cash deposit as collateral security and indemnity, equal in amount to such payment, and may hold the same as a special deposit with the city treasurer or town clerk, in package form, as a pledge for the fulfillment and performance of the contract or

obligation for which the advance is made.

(c) Before the payment of the current expenses mentioned above, the city or town council shall first set apart sufficient money to pay the interest upon its legal, valid, and outstanding bonded indebtedness and any sinking funds therein provided for and shall be authorized to pay all valid claims against funds raised by tax especially authorized by law for the purpose of paying such claims."

Section 23. Section 7-6-4254, MCA, is amended to read:

"7-6-4254. Limitation on amount of emergency budgets and appropriations. (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~38%~~ 39.6% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

(2) The term "taxable property", as used herein, means the percentage of the value at which such property is assessed and which percentage is used for the purposes of computing taxes and does not mean the assessed value of such property as the same appears on the assessment roll."

Section 24. Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, no city-county consolidated local government may

1 issue bonds for any purpose which, with all outstanding
2 indebtedness, may exceed ~~39%~~ 41.5% of the taxable value of
3 the property therein subject to taxation as ascertained by
4 the last assessment for state and county taxes.

5 (2) The issuing of bonds for the purpose of funding or
6 refunding outstanding warrants or bonds is not the incurring
7 of a new or additional indebtedness but is merely the
8 changing of the evidence of outstanding indebtedness."

9 **Section 25.** Section 7-7-108, MCA, is amended to read:

10 "7-7-108. Authorization for additional indebtedness
11 for water or sewer systems. (1) For the purpose of
12 constructing a sewer system or procuring a water supply or
13 constructing or acquiring a water system for a city-county
14 consolidated government which shall own and control such
15 water supply and water system and devote the revenues
16 therefrom to the payment of the debt, a city-county
17 consolidated government may incur an additional indebtedness
18 by borrowing money or issuing bonds.

19 (2) The additional indebtedness which may be incurred
20 by borrowing money or issuing bonds for the construction of
21 a sewer system or for the procurement of a water supply or
22 for both such purposes may not in the aggregate exceed 10%
23 over and above the ~~39%~~ 41.5% referred to in 7-7-107 of the
24 taxable value of the property therein subject to taxation as
25 ascertained by the last assessment for state and county

1 taxes."

2 **Section 26.** Section 7-7-2101, MCA, is amended to read:

3 "7-7-2101. Limitation on amount of county
4 indebtedness. (1) No county may become indebted in any
5 manner or for any purpose to an amount, including existing
6 indebtedness, in the aggregate exceeding ~~23%~~ 24.5% of the
7 total of the taxable value of the property therein subject
8 to taxation, plus the amount of interim production and new
9 production taxes levied divided by the appropriate tax rates
10 described in 15-23-607(2)(a) or (2)(b) and multiplied by
11 60%, plus the amount of value represented by new production
12 exempted from tax as provided in 15-23-612, as ascertained
13 by the last assessment for state and county taxes previous
14 to the incurring of such indebtedness.

15 (2) No county may incur indebtedness or liability for
16 any single purpose to an amount exceeding \$500,000 without
17 the approval of a majority of the electors thereof voting at
18 an election to be provided by law, except as provided in
19 7-21-3413 and 7-21-3414.

20 (3) Nothing in this section shall apply to the
21 acquisition of conservation easements as set forth in Title
22 76, chapter 6."

23 **Section 27.** Section 7-7-2203, MCA, is amended to read:

24 "7-7-2203. Limitation on amount of bonded
25 indebtedness. (1) Except as provided in subsections (2)

1 through (4), no county may issue general obligation bonds
 2 for any purpose which, with all outstanding bonds and
 3 warrants except county high school bonds and emergency
 4 bonds, will exceed ~~11.25%~~ 12% of the total of the taxable
 5 value of the property therein, plus the amount of interim
 6 production and new production taxes levied divided by the
 7 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
 8 and multiplied by 60%, plus the amount of value represented
 9 by new production exempted from tax as provided in
 10 15-23-612, to be ascertained by the last assessment for
 11 state and county taxes prior to the proposed issuance of
 12 bonds.

13 (2) In addition to the bonds allowed by subsection
 14 (1), a county may issue bonds which, with all outstanding
 15 bonds and warrants, will not exceed ~~27.75%~~ 29.5% of the
 16 total of the taxable value of the property in the county
 17 subject to taxation, plus the amount of interim production
 18 and new production taxes levied divided by the appropriate
 19 tax rates described in 15-23-607(2)(a) or (2)(b) and
 20 multiplied by 60%, plus the amount of value represented by
 21 new production exempted from tax as provided in 15-23-612,
 22 when necessary to do so, for the purpose of acquiring land
 23 for a site for county high school buildings and for erecting
 24 or acquiring buildings thereon and furnishing and equipping
 25 the same for county high school purposes.

1 (3) In addition to the bonds allowed by subsections
 2 (1) and (2), a county may issue bonds for the construction
 3 or improvement of a jail which will not exceed ~~12.5%~~ 13.3%
 4 of the taxable value of the property in the county subject
 5 to taxation.

6 (4) The limitation in subsection (1) does not apply to
 7 refunding bonds issued for the purpose of paying or retiring
 8 county bonds lawfully issued prior to January 1, 1932, or to
 9 bonds issued for the repayment of tax protests lost by the
 10 county."

11 **Section 28.** Section 7-7-4201, MCA, is amended to read:
 12 "7-7-4201. Limitation on amount of bonded
 13 indebtedness. (1) Except as otherwise provided, no city or
 14 town may issue bonds or incur other indebtedness for any
 15 purpose in an amount which with all outstanding and unpaid
 16 indebtedness will exceed ~~28%~~ 29.8% of the taxable value of
 17 the property therein subject to taxation, to be ascertained
 18 by the last assessment for state and county taxes.

19 (2) The issuing of bonds for the purpose of funding or
 20 refunding outstanding warrants or bonds is not the incurring
 21 of a new or additional indebtedness but is merely the
 22 changing of the evidence of outstanding indebtedness.

23 (3) The limitation in subsection (1) does not apply to
 24 bonds issued for the repayment of tax protests lost by the
 25 city or town."

Section 29. Section 7-7-4202, MCA, is amended to read:

"7-7-4202. Special provisions relating to water and sewer systems. (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town which owns and controls the water supply and water system and devotes the revenues therefrom to the payment of the debt, a city or town may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~28%~~ 29.8%, referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 30. Section 7-13-4103, MCA, is amended to read:

"7-13-4103. Limitation on indebtedness for acquisition of natural gas system. The total amount of indebtedness authorized to be contracted in any form, including the

then-existing indebtedness, must not at any time exceed ~~17%~~ 18.1% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes."

Section 31. Section 7-14-236, MCA, is amended to read:

"7-14-236. Limitation on bonded indebtedness. The amount of bonds issued to provide funds for the district and outstanding at any time shall not exceed ~~28%~~ 29.8% of the taxable value of taxable property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds."

Section 32. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided hereafter and in 7-7-2203 and 7-7-2204, no county shall issue bonds which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11+25%~~ 12% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612. The taxable property and the amount of interim production and new production taxes levied

shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants except county high school bonds, will exceed ~~11.25%~~ 12% but will not exceed ~~22.5%~~ 24% of the total of the taxable value of such property, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county, except county high school bonds, shall not exceed ~~22.5%~~ 24% of the total of the taxable value of the property within the county, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, as ascertained by the last preceding general assessment."

Section 33. Section 7-14-2525, MCA, is amended to

read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds ~~22.5%~~ 24% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, and the board determines that the county is unable to pay such indebtedness in full, the board may:

(a) negotiate with the bondholders for an agreement whereby the bondholders agree to accept less than the full amount of the bonds and the accrued unpaid interest thereon in satisfaction thereof;

(b) enter into such agreement;

(c) issue refunding bonds for the amount agreed upon.

(2) These bonds may be issued in more than one series, and each series may be either amortization or serial bonds.

(3) The plan agreed upon between the board and the bondholders shall be embodied in full in the resolution providing for the issue of the bonds."

Section 34. Section 7-14-4402, MCA, is amended to

read:

"7-14-4402. Limit on indebtedness to provide bus

1 service. The total amount of indebtedness authorized under
 2 7-14-4401(1) to be contracted in any form, including the
 3 then-existing indebtedness, may not at any time exceed ~~20%~~
 4 29.8% of the total taxable value of the property of the city
 5 or town subject to taxation as ascertained by the last
 6 assessment for state and county taxes. No money may be
 7 borrowed or bonds issued for the purposes specified in
 8 7-14-4401(1) until the proposition has been submitted to the
 9 vote of the taxpayers of the city or town and the majority
 10 vote cast in its favor."

11 **Section 35.** Section 7-16-2327, MCA, is amended to
 12 read:

13 "7-16-2327. Indebtedness for park purposes. (1)
 14 Subject to the provisions of subsection (2), a county park
 15 board, in addition to powers and duties now given under law,
 16 shall have the power and duty to contract an indebtedness in
 17 behalf of a county, upon the credit thereof, for the
 18 purposes of 7-16-2321(1) and (2).

19 (2) (a) The total amount of indebtedness authorized to
 20 be contracted in any form, including the then-existing
 21 indebtedness, must not at any time exceed ~~13%~~ 13.8% of the
 22 total of the taxable value of the taxable property in the
 23 county, plus the amount of interim production and new
 24 production taxes levied divided by the appropriate tax rates
 25 described in 15-23-607(2)(a) or (2)(b) and multiplied by

1 60%, plus the amount of value represented by new production
 2 exempted from tax as provided in 15-23-612, ascertained by
 3 the last assessment for state and county taxes previous to
 4 the incurring of such indebtedness.

5 (b) No money may be borrowed on bonds issued for the
 6 purchase of lands and improving same for any such purpose
 7 until the proposition has been submitted to the vote of
 8 those qualified under the provisions of the state
 9 constitution to vote at such election in the county affected
 10 thereby and a majority vote is cast in favor thereof."

11 **Section 36.** Section 7-16-4104, MCA, is amended to
 12 read:

13 "7-16-4104. Authorization for municipal indebtedness
 14 for various cultural, social, and recreational purposes. (1)
 15 A city or town council or commission may contract an
 16 indebtedness on behalf of the city or town, upon the credit
 17 thereof, by borrowing money or issuing bonds:

18 (a) for the purpose of purchasing and improving lands
 19 for public parks and grounds;

20 (b) for procuring by purchase, construction, or
 21 otherwise swimming pools, athletic fields, skating rinks,
 22 playgrounds, museums, a golf course, a site and building for
 23 a civic center, a youth center, or combination thereof; and

24 (c) for furnishing and equipping the same.

25 (2) The total amount of indebtedness authorized to be

contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~16.5%~~ 17.6% of the taxable value of the taxable property of the city or town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No money may be borrowed on bonds issued for the purchase of lands and improving the same for any such purpose until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor thereof."

Section 37. Section 7-31-106, MCA, is amended to read:

"7-31-106. Authorization for county to issue bonds -- election required. (1) If the petition is presented to the board of county commissioners, it shall be the duty of the board, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) to ascertain, within 30 days after submission of the petition, the existing indebtedness of the county in the aggregate; and

(b) to submit, within 60 days after ascertaining the same, to the electors of such county the proposition to approve or disapprove the contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~22.5%~~ 24% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained by the last assessment for state and county taxes previous to the issuance of said bonds and incurring of said indebtedness."

Section 38. Section 7-31-107, MCA, is amended to read:

"7-31-107. Authorization for municipality to issue bonds -- election required. (1) If said petition is presented to the council of any incorporated city or town, the council, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) shall ascertain, within 30 days after submission of the petition, the aggregate indebtedness of such city or town; and

(b) shall submit, within 60 days after ascertaining the same, to the electors of such city or town the proposition to approve or disapprove said contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~16.5%~~ 17.6% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained in the manner

1 provided in this part."

2 **Section 39.** Section 7-34-2131, MCA, is amended to
3 read:

4 "7-34-2131. Hospital district bonds authorized. (1) A
5 hospital district may borrow money by the issuance of its
6 bonds to provide funds for payment of part or all of the
7 cost of acquisition, furnishing, equipment, improvement,
8 extension, and betterment of hospital facilities and to
9 provide an adequate working capital for a new hospital.

10 (2) The amount of bonds issued for such purpose and
11 outstanding at any time may not exceed ~~22-5%~~ 24% of the
12 taxable value of the property therein as ascertained by the
13 last assessment for state and county taxes previous to the
14 issuance of such bonds.

15 (3) Such bonds shall be authorized, sold, and issued
16 and provisions made for their payment in the manner and
17 subject to the conditions and limitations prescribed for
18 bonds of school districts by Title 20, chapter 9, part 4.

19 (4) Nothing herein shall be construed to preclude the
20 provisions of Title 50, chapter 6, part 1, allowing the
21 state to apply for and accept federal funds."

22 **Section 40.** Section 15-1-101, MCA, is amended to read:

23 "15-1-101. Definitions. (1) Except as otherwise
24 specifically provided, when terms mentioned in this section
25 are used in connection with taxation, they are defined in

1 the following manner:

2 (a) The term "agricultural" refers to the raising of
3 livestock, poultry, bees, and other species of domestic
4 animals and wildlife in domestication or a captive
5 environment, and the raising of field crops, fruit, and
6 other animal and vegetable matter for food or fiber.

7 (b) The term "assessed value" means the value of
8 property as defined in 15-8-111.

9 (c) The term "average wholesale value" means the value
10 to a dealer prior to reconditioning and profit margin shown
11 in national appraisal guides and manuals or the valuation
12 schedules of the department of revenue.

13 (d) (i) The term "commercial", when used to describe
14 property, means any property used or owned by a business, a
15 trade, or a nonprofit corporation as defined in 35-2-102 or
16 used for the production of income, except that property
17 described in subsection (ii).

18 (ii) The following types of property are not
19 commercial:

20 (A) agricultural lands;

21 (B) timberlands;

22 (C) single-family residences and ancillary
23 improvements and improvements necessary to the function of a
24 bona fide farm, ranch, or stock operation;

25 (D) mobile homes used exclusively as a residence

1 except when held by a distributor or dealer of trailers or
2 mobile homes as his stock in trade;

3 (E) all property described in 15-6-135; and

4 (F) all property described in 15-6-136; ~~and~~

5 ~~(G) all property described in 15-6-146.~~

6 (e) The term "comparable property" means property that
7 has similar use, function, and utility; that is influenced
8 by the same set of economic trends and physical,
9 governmental, and social factors; and that has the potential
10 of a similar highest and best use.

11 (f) The term "credit" means solvent debts, secured or
12 unsecured, owing to a person.

13 (g) The term "improvements" includes all buildings,
14 structures, fences, and improvements situated upon, erected
15 upon, or affixed to land. When the department of revenue or
16 its agent determines that the permanency of location of a
17 mobile home or housetrailer has been established, the mobile
18 home or housetrailer is presumed to be an improvement to
19 real property. A mobile home or housetrailer may be
20 determined to be permanently located only when it is
21 attached to a foundation which cannot feasibly be relocated
22 and only when the wheels are removed.

23 (h) The term "leasehold improvements" means
24 improvements to mobile homes and mobile homes located on
25 land owned by another person. This property is assessed

1 under the appropriate classification and the taxes are due
2 and payable in two payments as provided in 15-24-202.
3 Delinquent taxes on such leasehold improvements are a lien
4 only on such leasehold improvements.

5 (i) The term "livestock" means cattle, sheep, swine,
6 goats, horses, mules, and asses.

7 (j) The term "mobile home" means forms of housing
8 known as "trailers", "housetrainers", or "trailer coaches"
9 exceeding 8 feet in width or 45 feet in length, designed to
10 be moved from one place to another by an independent power
11 connected to them, or any "trailer", "housetrailer", or
12 "trailer coach" up to 8 feet in width or 45 feet in length
13 used as a principal residence.

14 (k) The term "personal property" includes everything
15 that is the subject of ownership but that is not included
16 within the meaning of the terms "real estate" and
17 "improvements".

18 (l) The term "poultry" includes all chickens, turkeys,
19 geese, ducks, and other birds raised in domestication to
20 produce food or feathers.

21 (m) The term "property" includes moneys, credits,
22 bonds, stocks, franchises, and all other matters and things,
23 real, personal, and mixed, capable of private ownership.
24 This definition must not be construed to authorize the
25 taxation of the stocks of any company or corporation when

1 the property of such company or corporation represented by
2 the stocks is within the state and has been taxed.

3 (n) The term "real estate" includes:

4 (i) the possession of, claim to, ownership of, or
5 right to the possession of land;

6 (ii) all mines, minerals, and quarries in and under the
7 land subject to the provisions of 15-23-501 and Title 15,
8 chapter 23, part 8; all timber belonging to individuals or
9 corporations growing or being on the lands of the United
10 States; and all rights and privileges appertaining thereto.

11 (o) "Research and development firm" means an entity
12 incorporated under the laws of this state or a foreign
13 corporation authorized to do business in this state whose
14 principal purpose is to engage in theoretical analysis,
15 exploration, and experimentation and the extension of
16 investigative findings and theories of a scientific and
17 technical nature into practical application for experimental
18 and demonstration purposes, including the experimental
19 production and testing of models, devices, equipment,
20 materials, and processes.

21 (p) The term "taxable value" means the percentage of
22 market or assessed value as provided for in ~~15-6-131~~ through
23 ~~15-6-149~~ Title 15, chapter 6, part 1.

24 (q) The term "weighted mean assessment ratio" means
25 the total of the assessed values divided by the total of the

1 selling prices of all area sales in the stratum.

2 (2) The phrase "municipal corporation" or
3 "municipality" or "taxing unit" shall be deemed to include a
4 county, city, incorporated town, township, school district,
5 irrigation district, drainage district, or any person,
6 persons, or organized body authorized by law to establish
7 tax levies for the purpose of raising public revenue.

8 (3) The term "state board" or "board" when used
9 without other qualification shall mean the state tax appeal
10 board."

11 **Section 41.** Section 15-6-135, MCA, is amended to read:

12 **"15-6-135. Class five property -- description --**
13 **taxable percentage. (1) Class five property includes:**

14 (a) all property used and owned by cooperative rural
15 electrical and cooperative rural telephone associations
16 organized under the laws of Montana, except property owned
17 by cooperative organizations described in subsection (1)(b)
18 of 15-6-137;

19 (b) air and water pollution control equipment as
20 defined in this section;

21 (c) new industrial property as defined in this
22 section;

23 (d) any personal or real property used primarily in
24 the production of gasohol during construction and for the
25 first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development;

(f) machinery and equipment used in electrolytic reduction facilities;

(g) machinery and equipment used in canola seed oil processing facilities provided that the operators of such facilities employ a minimum of 25 15 full-time employees and locate in the state of Montana after (the effective date of this act).

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county

tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer; or

(d) property otherwise classified as class five property.

(6) "Canola seed oil processing facility" means a facility that:

(a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and packages the edible oil into food products, or engages in any one or more of those processes; and

(b) employs at least 25 15 employees in a full-time capacity.

~~(6)(7)~~ Class five property is taxed at 3% of its market value."

NEW SECTION. Section 42. Contingency. It is the intent of the legislature that [section 41] is void unless a new facility employing at least 25 15 employees in the processing of canola seed oil locates in the state of

Montana after [the effective date of this act].

Section 43. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

(a) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;

(b) all property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town;

(c) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

~~(d) --any--tools--or--implements--that--are--not--included--in--another--class--or--that--are--exempt--under--15-6-201(i)(r)--and--machinery--used--to--repair--and--maintain--machinery--not--used--for--manufacturing--and--mining--purposes--~~

(2) To qualify for this classification, the average circuit miles for each station on the telephone

1 communication system described in subsection (1)(b) must be
2 more than 1 mile.

3 (3) Class seven property is taxed at 8% of its market
4 value."

5 **Section 44.** Section 15-6-138, MCA, is amended to read:

6 "15-6-138. Class eight property -- description --
7 taxable percentage. (1) Class eight property includes:

8 (a) all agricultural implements and equipment;

9 (b) all mining machinery, fixtures, equipment, tools
10 that are not exempt under 15-6-201(1)(r), and supplies
11 except:

12 ~~(i) those included in class five; and~~

13 ~~(ii) coal and ore haulers;~~

14 (c) all manufacturing machinery, fixtures, equipment,
15 tools that are not exempt under 15-6-201(1)(r), and supplies
16 except those included in class five;

17 (d) all trailers, including those prorated under
18 15-24-102, except those subject to taxation under
19 61-3-504(2);

20 (e) all goods and equipment intended for rent or
21 lease, except goods and equipment specifically included and
22 taxed in another class;

23 (f) buses and trucks having a rated capacity of more
24 than 1 ton, including those prorated under 15-24-102; and

25 ~~(g) all other machinery except that specifically~~

1 ~~included in another class.~~

2 (g) truck toppers weighing more than 300 pounds;

3 (h) furniture, fixtures, and equipment, except that
4 specifically included in another class, used in commercial
5 establishments as defined in this section;

6 (i) x-ray and medical and dental equipment;

7 (j) citizens' band radios and mobile telephones;

8 (k) radio and television broadcasting and transmitting
9 equipment;

10 (l) cable television systems;

11 (m) coal and ore haulers;

12 (n) theater projectors and sound equipment; and

13 (o) all other property not included in any other class
14 in this part, except that property subject to a fee in lieu
15 of a property tax.

16 (2) As used in this section, "coal and ore haulers"
17 means nonhighway vehicles that exceed 18,000 pounds per axle
18 and that are primarily designed and used to transport coal,
19 ore, or other earthen material in a mining or quarrying
20 environment.

21 (3) "Commercial establishment" includes any hotel;
22 motel; office; petroleum marketing station; or service,
23 wholesale, retail, or food-handling business.

24 ~~(2)(4)~~ Class eight property is taxed at ~~11%~~ 6% of its
25 market value."

Section 45. Section 15-10-402, MCA, is amended to read:

"15-10-402. Property tax limited to 1986 levels. (1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, 15-6-134, 15-6-136, ~~15-6-139~~, 15-6-142, and 15-6-144 may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) The limitation contained in subsection (1) does not apply to levies for rural improvement districts, Title 7, chapter 12, part 21; special improvement districts, Title 7, chapter 12, part 41; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

Section 46. Section 15-24-1102, MCA, is amended to read:

"15-24-1102. Federal property held under contract of sale. When the property is held under a contract of sale or other agreement whereby upon payment the legal title is or may be acquired by the person, the real property shall be assessed and taxed as defined in ~~15-6-131--through--15-6-149~~ Title 15, chapter 6, part 1, and 15-8-111 without deduction on account of the whole or any part of the purchase price or other sum due on the property remaining unpaid. The lien for the tax may not attach to, impair, or be enforced against any interest of the United States in the real property."

Section 47. Section 15-24-1103, MCA, is amended to read:

"15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein less than the fee, except under contract of sale, the property shall be assessed and taxed as for the value, as defined in ~~15-6-131-through-15-6-149~~ Title 15, chapter 6, part 1, of such leasehold, interest, or estate in the property and the lien for the tax shall attach to and be enforced against only the leasehold, interest, or estate in the property. When the United States authorizes the taxation of the property for the full assessed value of the fee thereof, the property shall be assessed for full assessed value as defined in 15-8-111."

Section 48. Section 15-35-103, MCA, is amended to

1 read:

2 "15-35-103. Severance tax -- rates rate imposed. (1)
3 Subject to the provisions of 15-35-202 allowing a new coal
4 production incentive tax credit, a severance tax of 1% of
5 value is imposed on each ton of coal produced in the state,
6 in accordance with the following schedule:

7 (a)--After June 30, 1987, and before July 1, 1990:

8 Heating-quality	Surface--	Underground
9 (Btu-per-pound	Mining--	Mining--
10 ---of-coal):	-	-
11 Under-7,000	17%-of-value	3%-of-value
12 7,000-and-over	25%-of-value	4%-of-value

13 (b)--After June 30, 1990, and before July 1, 1991:

14 Heating-quality	Surface--	Underground
15 (Btu-per-pound	Mining--	Mining--
16 ---of-coal):	-	-
17 Under-7,000	13%-of-value	3%-of-value
18 7,000-and-over	20%-of-value	4%-of-value

19 (c)--After June 30, 1991:

20 Heating-quality	Surface--	Underground
21 (Btu-per-pound	Mining--	Mining--
22 ---of-coal):	-	-
23 Under-7,000	10%-of-value	3%-of-value
24 7,000-and-over	15%-of-value	4%-of-value

25 (2) "Value" means the contract sales price.

1 (3)--The formula which yields the greater amount of tax
2 in a particular case shall be used at each point on these
3 schedules:

4 (4)(3) A person is not liable for any severance tax
5 upon 50,000 tons of the coal he produces in a calendar year,
6 except that if he produces more than 50,000 tons of coal in
7 a calendar year, he will be liable for severance tax upon
8 all coal produced in excess of the first 20,000 tons.

9 (5)(4) A new coal production incentive tax credit may
10 be claimed on certain coal as provided in 15-35-202."

11 **Section 49.** Section 19-11-503, MCA, is amended to
12 read:

13 "19-11-503. Special tax levy for fund required. (1)
14 The purpose of this section is to provide a means by which
15 each disability and pension fund may be maintained at a
16 level equal to 4% 4.26% of the taxable valuation of all
17 taxable property within the limits of the city or town.

18 (2) Whenever the fund contains less than 4% 4.26% of
19 the taxable valuation of all taxable property within the
20 limits of the city or town, the governing body of the city
21 or town shall, at the time of the levy of the annual tax,
22 levy a special tax as provided in 19-11-504. The special tax
23 must be collected as other taxes are collected and, when so
24 collected, must be paid into the disability and pension
25 fund.

(3) If a special tax for the disability and pension fund is levied by a third-class city or town using the all-purpose mill levy, the special tax levy must be made in addition to the all-purpose levy."

Section 50. Section 19-11-504, MCA, is amended to read:

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than ~~4%~~ 4.26% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

Section 51. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means ~~those-moneys~~ the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) ~~The legislative--appropriation~~ legislature shall biennially appropriate money for state equalization aid ~~shall--be--made--in--a--single--sum--for--the--biennium.~~ The superintendent of public instruction ~~has--authority--to~~ may

spend ~~such~~ the appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following ~~shall~~ must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) 31.8% of all money received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all money, except as provided in 15-31-702, received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 100% of the money allocated to state equalization from the collection of the severance tax on coal;

(d) 100% of the money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) income from the education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333; and

(h) money allocated from the privilege tax on coal as

provided in [section 7(2)(d)].

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium."

Section 52. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1)

The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is ~~45%~~ 47.9% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The ~~45%~~ maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of such amount shall be null and void, except as provided in this section.

(2) When the total indebtedness of a school district has reached the ~~45%~~ limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of

this chapter.

(3) Whenever bonds are issued for the purpose of refunding bonds, any moneys to the credit of the debt service fund for the payment of the bonds to be refunded are applied towards the payment of such bonds and the refunding bond issue is decreased accordingly."

Section 53. Section 20-9-407, MCA, is amended to read:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the ~~45%~~ limitation prescribed in 20-9-406. Under such an agreement, the school district may, with the approval of the voters, issue bonds which exceed the limitation prescribed in this section by a maximum of ~~45%~~ 47.9% of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to

do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

(3) A major industrial facility is a facility subject to the taxing power of the school district, whose

construction or operation will increase the population of the district, imposing a significant burden upon the resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

Section 54. Section 20-9-502, MCA, is amended to read:

"20-9-502. Purpose and authorization of a building reserve fund by an election. (1) The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(a) the purpose or purposes for which the new or addition to the building reserve will be used;

(b) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(c) the total amount of money that will be raised during the duration of time specified in subsection (1)(b); and

(d) any other requirements under 20-20-201 for the calling of an election.

(2) The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than ~~45%~~ 47.9% of the taxable value of the taxable property of the district. Such limitation shall be determined in the manner provided in 20-9-406. A building reserve tax authorization shall not be for more than 20 years.

(3) The election shall be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election shall be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE--YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE--NO".

Shall the trustees be authorized to impose an

additional levy each year for years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of dollars (\$....), for the purpose(s) (here state the purpose or purposes for which the building reserve will be used)?

☐ BUILDING RESERVE--YES.

☐ BUILDING RESERVE--NO.

(4) The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used."

NEW SECTION. **Section 55.** Repealer. Sections 15-6-139, 15-6-140, and 15-6-146, MCA, are repealed.

NEW SECTION. Section 56. Effective date. (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) If [this act] is passed and approved after July 1, 1989, [this act] is effective retroactively, within the meaning of 1-2-109, to July 1, 1989.

NEW SECTION. Section 57. Applicability -- contingency. (1) If [this act] is passed and approved after June 30, 1989, [sections 1 through 18] apply retroactively, within the meaning of 1-2-109, to all coal sold and the receipts from such sales after June 30, 1989. Coal sold prior to July 1, 1989, is not subject to the tax imposed in [section 1], regardless of when the privilege tax is collected.

(2) If [this act] is passed and approved prior to July 1, 1989, [sections 1 through 18] apply July 1, 1989, to all coal sold after June 30, 1989. Coal sold prior to July 1, 1989, is not subject to the tax imposed in [section 1], regardless of when the privilege tax is collected.

(3) [Sections 20 through 55] apply to taxable years beginning after December 31, 1989, and to fiscal years beginning after June 30, 1990.

NEW SECTION. Section 58. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before

[the effective date of this act].

NEW SECTION. Section 59. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

NEW SECTION. Section 60. Codification instruction. [Sections 1 through 18] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 18].

-End-

MINUTES

MONTANA SENATE 51st LEGISLATURE - SPECIAL SESSION

FREE CONFERENCE COMMITTEE ON HB 20

Call to Order: By Chairman Delwyn Gage, on July 11, 1989, at 1:55 p.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Delwyn Gage, Senator Gene Thayer, Senator J. D. Lynch, Representative Ted Schye, Representative Fritz Daily, Representative Ed Grady

Members Excused: None

Members Absent: None

Staff Present: Greg Petesch

Announcements/Discussion:

Chairman Gage indicated that it is no secret that the Governor would like personal property at 4%, and would like this bill to go down to him with that provision in it. He also reported that the Governor has talked to many of them about a severability clause in this bill, and has indicated he would put it in, if the bill came to him as the Senate passed it, or would invite the conference committee to put that in. He then pointed out that a copy of a memorandum from the Governor's office has been distributed to each of the committee members regarding the bonding provisions which indicates that, from their legal people and from Dorsey-Whitney, this does not require a two-thirds vote. A copy of the memorandum is attached as Exhibit 1. He indicated that these seem to be the three areas which are of the biggest concern, at this point.

Chairman Gage stated that, as far as he is concerned, those are the bottom lines, and he is not interested in negotiating the canola out and passing two bills, or doing anything other than those things. He added that, if the committee members want to sit here all afternoon talking about other things, they can do that, but he wants them to know that is his bottom line, noting it may not be negotiation, but that is the way it is, and the committee might as well know it right off the bat.

Senator Lynch stated that, for the record, he wants to reiterate that he is opposed to every attempt to combine the

bills, noting that he voted for both bills. He added that he is convinced in his mind, and he is not a legal expert, that the constitution requires a three-quarters vote on capping that severance tax, be it they call it a privilege tax or whatever they want to call it, that he does not think they can change the name, but he guesses that is up to the court to decide. He indicated that he does not like them being combined, that he thinks it was inappropriate to do so, but that he voted for the bill as it passed the Senate with the combination, reluctantly, and would do so again. He added that he would much rather see two bills, but understands the political realities, and that it will not happen the way it should happen.

Senator Thayer indicated that, from his perspective, he will back the Majority Leader on this issue. He stated that he firmly believes that, if they had the 4% tax in, the Anhauser-Busch plant would be under construction in Montana right now. He indicated that, every time they try to piece-meal this thing together, it is just too late, that these big corporations do not reveal their plans to build anything, and the Butte people were damn lucky to find somebody who would even talk to them about their plans on this canola plant because it usually does not work that way. He added that, in the first place, the big corporations do not want to reveal what they are doing because it escalates land costs, gets a lot of speculation going, that it gets cities and states competing against each other, and they are just not interested in that.

Senator Thayer pointed out that he is not blowing hot air here, that he had a talk with the individual who made the decision on where that plant would be built, and these are his words. He stated that Montana would have had that plant, if they had this bill in, adding that he thinks it is critically important that they do something, that this is their opportunity to do it, and he is standing firm on this position.

Representative Schye asked Senator Thayer if he is willing to take that the bill will stand in court, and the tax relief will happen immediately. He indicated that he agrees with a lot of the things Senator Thayer is saying, but that he does not think this bill will work, and there are a lot of people who agree that it will not work. He pointed out that Senator Thayer is betting on tax relief in a bill which is not going to give tax relief for at least as long as it is in the courts, that there will possibly be an injunction. He noted that Senator Thayer is saying he is not willing to work on a compromise bill that will give tax relief, which they know

bills, noting that he voted for both bills. He added that he is convinced in his mind, and he is not a legal expert, that the constitution requires a three-quarters vote on capping that severance tax, be it they call it a privilege tax or whatever they want to call it, that he does not think they can change the name, but he guesses that is up to the court to decide. He indicated that he does not like them being combined, that he thinks it was inappropriate to do so, but that he voted for the bill as it passed the Senate with the combination, reluctantly, and would do so again. He added that he would much rather see two bills, but understands the political realities, and that it will not happen the way it should happen.

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will work, that both the Majority Leader and Senator Thayer are saying they are willing to take this bill, noting that, if it goes to court, nobody gets tax relief until it is proven in the courts, and that they are not willing to work on a compromise.

Senator Thayer asked Representative Schye what he is offering as funding in lieu of capping the coal trust. Representative Schye responded that he is not sure, that they can sit down and work on those, but they are not willing to work, that they just heard that from both the Senator here and him, that they are not willing to work on any compromises or any negotiation at all. Senator Thayer indicated that, if Representative Schye is willing to work. Representative Schye pointed out that is not what was said. Senator Thayer then indicated that he just does not think there are any other options out there, other than the one they have before them, which is why he stated what he did. He added that he guesses they will get as many opinions about whether something is legal or not as there are attorneys that they want to talk to and, with the severability clause, it does not in any way jeopardize the canola plant, in any event.

Representative Daily indicated that it is almost kind of ironic because he agrees with both Representative Schye, and especially with what Senator Lynch said. He added that he voted for the bill the way it was in the House, and he guesses he will have to live with that. He further indicated that it almost seems ironic that they would be talking about two bills which are going to get them out of this session, that one is this bill, obviously, and the other is the school equalization bill, and that, before it is over, he thinks both of them will be back in court, if they pass them, but that he guesses that is what has to happen in order to resolve the issue.

Representative Daily stated that it would really be a tragedy to lose the canola plant over not having personal property tax relief, and that he knows what Senator Thayer has said is true, too. He then reported that the Chief Executive talked with the people from Stauffer who expressed the same concerns and may be leaving, if they do not have some personal property tax relief. He stated that he knows, in his own mind, what they are doing is not the best way to do it but he does not know of a better way, that, if he knew of a better way, he would have it before them but he does not know of a better way at this point. He indicated that he does have some amendments he would like to propose and, when the time comes, he will be happy to do that.

Representative Daily indicated that he would like to have Greg Petesch address this committee. He pointed out that others on this committee have heard the Governor's part of the bill, that he never has, and he will be carrying this bill in the House, adding that he does not really like that, but that is the way it goes. He then indicated that he would like to have Mr. Petesch give his opinion as to the constitutionality of the bill the way it stands, with both bonds and the coal severance tax. He stated that he thinks it is important, that they are the Legislature's council and should tell them what they think, adding that he has never had that opportunity and would like to have that opportunity.

Chairman Gage asked Representative Daily if the committee could hear Representative Grady first.

Representative Grady indicated that he would like to ask Representative Schye a question, that he is not ready to make a decision at this time, and would like to hear some more testimony. He then indicated that Representative Schye said they will probably end up in court, noting that he knows there are threats of injunctions and lawsuits and everything else, that this is nothing new because they are up here making laws and hear that every day, and asked Representative Schye if he thinks there is a threat, now, of picking and choosing as far as giving certain industries breaks in their taxes and not doing anything for existing industries. Representative Schye responded that he agrees.

Representative Grady pointed out that businesses are closing, moving out of state, that they are not addressing them but are picking and choosing to try to get new industry. Representative Schye stated that he agrees, that he does not like those bills, either. Representative Grady pointed out that they are subject to a discrimination suit right now. Representative Schye responded that he does not disagree with that, but he thinks that, when they are talking about the subject they are talking about right now, and are threatened with a law suit, a lot of those are not idle threats, that the law suit will be there. He again stated that those are not threats, that the law suits will be there and he would just about guarantee that. He added it will not be him because he does not have the money, but that he knows people who are already filing behind a lot of the law suits. He then stated that he has no idea whether it will win or not, but that, if he is going to bet on something, he would rather bet on a sure deal than on something which might not happen.

Chairman Gage asked Mr. Petesch to respond to Representative Daily's request.

Mr. Petesch indicated that he thinks the legal issues involved in this bill are two, and are fairly distinct, but that there have been a lot of allegations regarding the coal severance tax portion of the bill, first of all. He further indicated that he thinks the legislative authority to reduce severance tax rates was clearly established, last session, with the window of opportunity. He pointed out that, whether they can reduce that rate to a point where they may be impairing water bond contracts is a separate issue from their authority to reduce the severance tax rate. He then indicated that he does not think anyone can answer the question of whether the privilege tax in this bill is the severance tax referred to in the constitution and requires a three-quarters vote, adding that he has never seen any case which dealt with anything even remotely similar to that, and he thinks their best guess is as good as anybody else's on that issue.

Mr. Petesch then indicated that, on the water bond impairment issue, he thinks there are some precedence there, and they need to be aware of them. He reported that there has never been a court case in Montana where they have tried to switch one stream of revenue for another stream of revenue which is dedicated to those bonds, but that those bonds in 747, and previously issued, were issued with a three-quarter vote, not just a two-thirds vote, because they are actually taking money out of that permanent trust with those bonds. He indicated that people who allege that trust fund has never been tapped are not exactly right, that the stream of revenue dedicated to flowing in to that trust fund has been tapped every time new water bonds are issued with a three-quarters vote.

Mr. Petesch then pointed out that another part of the constitution requires a two-thirds vote of each House for the incurring of state debt, and he contends that, when they issue privilege bonds and pledge the privilege tax to those, they are authorizing the incurring of new state debt, they are authorizing privilege bonds to be issued. He indicated that one of the basis for his opinion is, as they may recall, in the special session of 1986, they ran out of money and had capitol renovation bonds which were issued to renovate this building and put air-conditioning in, for one thing. He reported that they decided they needed to free-up the cigarette tax revenue which would go to pay off those long-range building bonds, and that he and Bill Johnstone out of the Minneapolis office of Dorsey-Whitney, bond council at that time, agreed that, in order to not use those bonds for the

purpose to which they had been issued, and to use them to pay the debt service on the other long-range building bonds, thereby freeing-up cigarette tax revenue for the general fund, a two-thirds vote was required to do that. He added that they are going a step beyond that, it seems to him, in authorizing issuance of new full-privilege tax water bonds, which is why he feels this requires a two-thirds vote.

Mr. Petesch indicated that he is giving the committee conservative advice because he thinks that, when they are dealing with the credit of the state, that is the way they should go, and is why he feels they need that two-thirds vote. He added that he thinks that, because they have never attempted to switch one source of revenue for another in backing bonds which have already been issued, as was pointed out by Ms. Ellingson in her memorandum, he thinks they will end up with a test case on this, even if they do get a two-thirds vote, and he thinks that, without the two-thirds vote and without the appropriation of that money in this bill, they will not be issuing those bonds.

Senator Lynch asked Mr. Petesch if one part of the bill maybe requires a majority vote, and another part requires a two-thirds vote, and if the entire bill, as it comes out with a severability clause and whatever, requires a two-thirds vote, in his opinion. Mr. Petesch responded that the two-thirds vote is only required for the pledge of the credit of the state to create that new state debt. He explained that they could have that section of the bill, if they put it in, which they have not yet, severed from the rest, if the whole bill fails to get a two-thirds vote. He noted that they can only vote on the bill as a bill, that they can not vote on portions of the bill but, if they have that in there, and if the bill fails to get the two-thirds vote, then that section appropriating that money and pledging the credit of the state to that debt would drop out of the bill, and they would have a coordination instruction for that section, if they put it in.

Chairman Gage indicated he received something from Carroll South, noting that he does not know about the water bonds and he may have misunderstood him completely, but he, in his presentation, indicated that in those bonds it talks about severance tax or a replacement tax, and asked Mr. Petesch if that is in the water bonds, or does that really have anything to do with what he is saying.

Mr. Petesch responded that has partially to do with what he is saying. He indicated that, for the bonds which have already been issued, in the event coal mining ceased, they

would still have to make payments on those bonds even though they were not collecting any severance taxes because they pledged the full faith and credit of the state in backing those bonds. He added that they could have a stream of revenue, a new tax which they enacted, go to the payment of those bonds, that they would not be impairing the contract on those existing bonds, which is what that clause refers to.

Chairman Gage then asked Mr. Petesch if the fact that they are even questioning whether or not they are putting an obligation on a different revenue stream indicates that there is a difference between severance tax and privilege tax, noting that some are saying call it anything they want, it is still a severance tax.

Mr. Petesch responded that he thinks that enhances their argument, that he thinks the argument that this is a different tax is enhanced by the fact that they have left some severance tax in place, and that he thinks the argument is hurt somewhat by the fact that it is calculated in an identical manner. Chairman Gage indicated that is nothing new, Mr. Petesch agreed that is nothing new, and Chairman Gage noted that they have resource indemnity trust conservation and severance taxes and all of those are calculated in exactly the same manner.

Representative Daily asked Mr. Petesch if there is any way to fix it. Mr. Petesch responded that he believes the amendments which were severed in the Senate from Senator Gage's original motion, because it was an appropriation appropriating the proceeds to that bond fund and to the debt service on those bonds, and having a two-thirds vote requirement for the enactment of that section, would help the bill. He added that, if they do not get that two-thirds vote, he thinks they are right back where they began. He indicated that he thinks that, at least, is something they can do, that, if they put that in the bill and get that vote, they have enhanced their test case considerably.

Representative Schye noted that he was not on the Natural Resources Committee, or anything, and asked, when they talk test case, what are they talking about. Mr. Petesch responded that, when the state issues bonds and there are legal issues involved in the validity of those bonds, bond council will not underwrite those bonds until that legal issue has been resolved. He reported that they had a test case when they first did coal severance tax bonds, because there was a question of whether they could pledge, for the lifetime of those bonds, that three-quarters vote for future legislatures, and the court said they could. He added that an almost

identical thing was tried for science and technology economic development bonds, patterned after that water bond statute, and the court threw that out on so many different constitutional grounds that it is almost unbelievable they could think up that many. He indicated that, until the question of the legality of the issuance of those bonds has been resolved, they will not be able to sell those bonds, and no one will buy them. He added that is what the test case is, that it is a friendly law suit to test the validity of that statute authorizing those bonds.

Representative Schye asked Karen Barclay, Director, Department of Natural Resources and Conservation, if they would go into a test case immediately, if this bill passes. Ms. Barclay responded no, not necessarily. She indicated that, as she thinks they are aware, bond council has issued a memo which indicates they feel that it is defensible argument that, in fact, the debt has already been incurred through HB778 and, therefore, what they are doing in this case is merely pledging this new tax to cover the bonds which have been authorized already. She added that, in further discussions, they have basically said that they have not had enough time to thoroughly investigate every possible alternative or resolution, but feel it is a very good argument that the debt has been incurred by the two-thirds vote required and, therefore, they can proceed with the bond sales.

Representative Schye then asked Ms. Barclay; if it is taken to court right away, would they have to have a test case. Ms. Barclay responded that there have been indications there would be an injunction, litigation, or whatever, and that, obviously, that would hold up the issuance of bonds because, in that event, no one would be willing to purchase the bonds, that it would be difficult for people to purchase the bonds. Representative Schye then asked, if they are held up, how long do these test cases take. Ms. Barclay responded that she thinks the last test case was two years. Representative Schye asked, on a lot of the water projects, if it does go into the courts, a test case, would the bonds not be issued for over two years, possibly, noting that is a scenario which could happen, hypothetically.

Ms. Barclay responded that he asked if there are any ways to fix it, and indicated that she thinks there are probably ways to address some of the concerns which have been mentioned. She pointed out that one which was suggested is that perhaps they put this language into the bill, and that, then, if that would pass by the two-thirds majority, that would fix the

concern over the two-thirds majority, and HB20 would only require the simple majority.

Representative Grady asked Ms. Barclay how much federal dollars is tied up in these water projects. Ms. Barclay asked if he is referring to the new ones which have just been authorized. Representative Grady indicated that he is referring to the ones this bonding would affect. Ms. Barclay responded that there are some federal dollars involved in some of the projects, Middle Creek being one of them, and, in that case, it is really not matching dollars, that they indicated they would utilize their money first and, if they needed additional monies, they would authorize the bonds, so that really is not necessarily matching.

Representative Grady asked if they would not lose that, if this did get delayed for a year and a half or two years. Ms. Barclay responded no, and added that, in checking into it, they feel they can continue with that project but, if they needed additional bonding from the state, there would be a potential delay. She then indicated that they are, in fact, currently scheduled to get the federal monies, but that it is anyone's guess as to what will happen with those federal appropriations. She added that she believes that is the only one which had federal money tied up in it.

Representative Schye asked Ms. Barclay, if they go into a test case, what does it cost and who pays for it. Ms. Barclay responded that they also tried to take a look at that and, on the first test case, she thinks it was about \$80,000. Representative Schye asked if that was a cost to the state. Ms. Barclay responded yes.

Representative Daily indicated that he has three, and possibly a fourth amendment which he would like to show Senator Thayer before he offers them. He distributed copies of the amendments to the committee members, copies of which are attached as Exhibits 2, 3 and 4.

Motion: Senator Thayer offered a motion that his proposed amendment to HB20 to include a severability clause be adopted.

Senator Thayer explained that the amendment is simply a severability clause which basically says that, if one or any other parts of this bill are declared invalid, the other parts are valid. He added that this is the same severability clause Chairman Gage was talking about earlier.

Chairman Gage indicated that, as he understands it, this language says that the property tax relief portions are severable, and would have to be funded in some other manner than capping the coal trust, if the coal trust cap is declared unconstitutional. He asked Senator Thayer if that would characterize the amendment pretty well.

Senator Thayer responded that he does not think so. He stated that the sole purpose of the amendment, as far as he is concerned, is to make sure that, if the coal tax is challenged and found to be invalid, or if the bonding part of the bill is challenged and found to be invalid, the canola part of the bill is still in place. He indicated that this bill really has three distinct parts to it, that one is the canola part of it, one is the bonding part of the water project, and the other is the coal severance tax, noting that, in his opinion, he thinks the other two will possibly be challenged and, whether they will hold up or not, he does not have a clue. He added that the purpose of the amendment is so that at least they do not lose that project over these other sections, and that is his sole purpose in making the amendment.

Chairman Gage asked Mr. Petesch to address that, and asked if those portions of the bill which deal with property tax reform would be considered severable, if capping the coal trust and the bonding were declared to be unconstitutional.

Mr. Petesch responded that this is a standard severability clause which is included in most bills when they put in a severability clause. He explained that, the way the bill currently stands, there is a non-severability clause in it which means that the whole bill stands or falls, as a package, so that, if the court found a specific subsection of this bill invalid, the whole bill would fall. He explained that the severability clause says that, if a portion of this bill is found invalid, anything that is not tied to that invalid portion, and which can stand on its own, would. He added that he thinks they have several scenarios which could come about, that the severance tax could be declared unconstitutional, and all the personal property tax relief in this bill would remain. He noted that the problem they will have, then, is they have an appropriation in the other bill which they will have to fund somehow, but indicated that he thinks that is one scenario, and that he thinks the personal property tax relief, the severance tax and the bonding thing are not all tied together in this bill, if the severability clause is put in.

Chairman Gage indicated that would be his understanding, and is what he was trying to express. He explained that he thinks

those property tax provisions are severable, and would leave them with finding a mechanism of some kind to pick up those dollars, which capping the coal trust pick up, in some other manner for property tax relief, that this would be his understanding of it. He stated that he, personally, is not opposed to a severability clause with regard to the canola portion of it, if they can get an amendment of some kind which says, if the coal trust capping is determined to be unconstitutional, as it is accomplished in this, all of those sections, with the exception of the section dealing with canola, are not severable from the coal trust capping.

Motion: Senator Lynch offered a substitute motion that HB20 be amended to provide that, if coal trust capping is determined to be unconstitutional, as it is accomplished in this, all of those sections, with the exception of the section dealing with canola, are not severable from the coal trust capping.

Senator Lynch asked Mr. Petesch if that is possible to do, and Mr. Petesch asked if they would have everything but the classification of canola as Class 5 non-severable, with that section as severable. Senator Lynch responded that is right, and Mr. Petesch indicated, yes, they can draft it.

Senator Thayer asked Chairman Gage what would be the purpose of that. Chairman Gage responded that would mean, if the Supreme Court, or whoever tests this, says this bill is unconstitutional as far as the coal trust is concerned, all of those sections, with the exception of Class 5, would be void, as well, so that they will not have to pick up funding for reducing all of those other classes from some other source. He added that he does not know, at this time, if they have another source to do that with, but it would leave a guarantee in there that, regardless of what else happens to this bill, Class 5 property would be as it presently is in the bill, noting that he is not sure what the total ramifications of that are.

Senator Thayer asked if this would be any property in Class 5, not just the canola plant. Chairman Gage referred to Section 41, page 46 of the bill, and stated that Class 5 is at 3% right now, so it would not cost a penny to fund any of Class 5, if the rest of the bill failed.

Senator Lynch pointed out that they are moving the canola seed oil from Class 6 to Class 5, so they would be fine, there. Chairman Gage indicated that is correct, and explained that, if everything except Section 41 is void in this bill, on

determination that this bill is unconstitutional, Section 41 would remain.

Senator Thayer indicated that he still is not clear in his mind what the distinction is between the original motion, and Senator Lynch's motion. Senator Lynch explained that the original motion would have said that, if the coal tax, which he thinks is most in jeopardy because of the three-quarters vote, is found unconstitutional, they would still have reduced personal property taxes. He pointed out that they talk about a black hole, but that would leave something in the neighborhood of \$47 million a year for which there is no funding. He added that their obligation is to have a balanced budget, and he thinks they would automatically have to come back into session because they would not have done that.

Senator Lynch then pointed out that this says they are relying on, noting that is their whole bone of contention, the constitutionality of a majority vote on the severance tax. He added that there was a non-severability clause in it, anyway, in his own bill, before he jumped in on HB20, so this is nothing new, but he is saying he is keeping his non-severability clause, that he is keeping their's separate on HB20, which was only intended for one purpose which was Anhauser-Busch, so, if they go to court and have litigation, it is separate and, if it is ruled unconstitutional, they have not reduced everything and the state owes \$47 million a year, which they do not have.

Chairman Gage added that, since the canola property is in a class which is already at 3%, if that constitutional provision fails, they are still at 3%, which they were at originally, so it has no effect on Class 5 property, at all, this bill does not, as it presently exists.

Senator Thayer indicated that he is not sure they should not be obligated, that he thinks it is critically important that they get to this level, regardless of how it gets funded. He added that, if it does not work this way, he thinks they should find a different way to do it. Senator Lynch stated that the Governor himself, in SB22, has the non-severability, that it all won or died together, and the Governor has no objection to this, that it was in his bill. Chairman Gage noted that is true.

Vote: The substitute motion by Senator Lynch passed with Representative Daily, Representative Grady, Representative Schye, Senator Gage and Senator Lynch in favor, and Senator Thayer opposed.

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Motion: Representative Daily offered a motion that HB20 be amended to include a coordinating instruction.

Representative Daily indicated that, as most of the committee members know, Representative Rehberg has HB50, which he believes must pass if this bill is going to pass because it has a mechanism for getting the tax relief money back to local governments and school districts. He added that, if they do not do that, there is a possibility that local governments or school districts would be left out in the cold without any funding, or at least the funding from this source, and he thinks it is really an important amendment.

Chairman Gage asked Representative Daily if he also wants to leave the Class 5 property out of this motion, as well, or if he wants to include it, and say that, if HB50 is not passed and approved, this bill, with the exception of Class 5 property, is void. Representative Daily indicated that he thinks they would want to put with the exception of Class 5 in there, and asked Mr. Petesch. Mr. Petesch responded that they could do that, that the Class 5 was not tied to the re-appropriation money because that is a new thing, and there is no loss of revenue due to the Class 5, so they could do that.

Representative Rehberg indicated that his question would be, with the severability they put in on the last motion and this coordination, if, for some reason, HB50 does not pass, can the severable parts of HB20 still go into effect. Mr. Petesch responded no, not the way this would work. He explained that this amendment would have tied them entirely together so if one was not passed and approved, they would both be void. He added that, if this bill is passed and approved, and HB50 is not, with this new amendment, the Class 5 section of the bill would still become effective. Representative Rehberg indicated that is what he is saying; canola goes in, and personal property does not go in, and stated that is the problem with the bill, that it negates the entire reason for hooking them together.

Chairman Gage indicated that is true. Representative Rehberg further indicated that, if he understands it correctly, if they are going to require a three-quarter vote in HB50, and they are currently sitting at a majority plus a few votes, they obviously kill HB50, and the severable parts of HB20 still pass. Mr. Petesch indicated that he is not sure anyone proposed a three-quarter vote on HB50. Representative Rehberg responded that all he is saying is if they put in language for

a three-quarter vote. Chairman Gage indicated it is two-thirds, and Representative Rehberg acknowledged that.

Mr. Petesch then stated that his understanding of the two-thirds vote would be only for one section of the bill, that only the remainder of the bill would require a majority vote and, if the bill failed to get the two-thirds vote, that one section would fail, not the entire bill. Representative Rehberg asked if that is dealing with the water bonds, only, and not dealing with the rest of the coal tax capping. Senator Thayer pointed out that the amendment does not mention two-thirds. Representative Rehberg responded that the language which was discussed earlier about the water bonds did mention two-thirds and, if they are hooked all together, his fear is that, with all the severability and coordination, there may have been something left behind if the entire HB50 did not receive the necessary two-thirds vote.

Chairman Gage stated that he thinks the best thing to do would be to adopt this amendment, as it stands, and both bills ride on HB50. Representative Rehberg indicated not if that is excepted. Chairman Gage responded that it says, if HB50 is not passed and approved, this act is void. Representative Rehberg indicated that he does not believe that is correct with what they just did with the severability. Mr. Petesch stated that the severability and coordination are separate issues, that severability deals with legal challenges to the bill, and the coordination clause ties the passage of this bill to the passage of another bill. He added that the intent behind this amendment would be that they could not simply pass this bill, and then have HB50 not pass, so that local governments would have no replacement revenues, that this is the intent of this amendment. Mr. Petesch then indicated that there has been a motion suggested that the canola section of this bill should not be tied to the passage of HB50, so that, if this bill is passed and approved, and HB50 is not, the canola section would remain valid and the rest of this bill would not, pointing out that those are their two options. Chairman Gage stated that, from his perspective, he would rather see the two bills ride together.

Representative Daily stated that he would like for them to at least vote on keeping the canola part separate, that he would like to insert in this amendment that the canola part needs to be part of the Class 5 property, noting that he does not know how to do that. He then indicated that he has to emphasize over and over, and over again, that, if they lose part of this bill, it would be a tragedy to lose that plant because of part of the bill, that it is totally asinine to

think they would lose that plant over part of this bill. He added that he hopes HB50 passes, too, that he thinks it is an important part of the bill.

Motion: Representative Daily offered a substitute motion to include a coordinating instruction in HB20, and to provide that the section regarding Class 5 property not be tied to the passage of HB50 under the coordination clause.

Chairman Gage indicated that the other side of the coin is, if they except canola from this bill, there is no meat for HB50, particularly. Representative Daily stated that he does not agree with that, that he thinks HB50 is a very important part of this whole process. He indicated that, if they do not have HB50, they probably should not have any of it, and asked how they can take the money from local governments and not have a replacement for them, noting that is why they need HB50, for a replacement mechanism. He indicated that, if they do not have the wisdom to do that, he can not imagine that they would do that, adding that he certainly would not do that.

Senator Thayer indicated that he thinks there is precedence in the Legislature, that things have been voted on, in the past, that the money was never appropriated, and they died down in room 108, that it has happened plenty of times in the past. He added that he would rather keep them hooked up.

Representative Daily pointed out that another thing they need to keep in mind is that they do not have canola, yet, that it is not in place, and the passage of this bill does not guarantee that the canola plant will be there. He added that it helps and, hopefully, the passage of this bill will be the ingredient which will get the canola plant to Montana, but that another thing to keep in mind is that the canola part of the bill does not need any replacement revenue because it is not here yet. He noted that they are talking brand new money with canola, if it gets here, and that is why he would like the amendment as Mr. Petesch has suggested, and has made that motion.

Representative Grady indicated that this amendment would bring it back to what he spoke to earlier that, if this bill is challenged, it lets them go ahead on the canola and give the tax break there, but they have done nothing for anybody else, that they go right back to what he said earlier. He stated that he wants to see the canola plant, too, and he wants to see Anhauser-Busch, that he wants to see them all bring jobs

in here, but somewhere they have to stop picking and choosing, that they have to look at the whole card in this. He indicated that he guesses the reasoning for a lot of them agreeing to vote for the amendment to put this in the bill is because that is the way the majority of them feel, that they have to start doing something for all business in the state but, now, if they do this, they have untied the knot.

Representative Daily stated that he does not agree with that, that he does not think there is any question that any one of them on this committee does not want to see some personal property tax relief for businesses, pointing out that how they get that is the question. He indicated that he knows they are losing businesses without it, that they all know that in this room, and he certainly would love to see them do that to encourage businesses to stay in Montana, but does not think this amendment does that. He noted that all this amendment says is, if HB50, the way it is proposed right now, the way that Mr. Petesch has suggested, does not pass, they still do not lose the canola thing, and what Representative Grady is saying is that, if HB50 does not pass, they would lose canola, too.

Representative Grady indicated the way it is now, without the amendment, and with Representative Daily's amendment, it would segregate the canola plant from the rest of the bill. Representative Daily indicated that is right.

Senator Lynch pointed out that HB50, as he understands it, is to replace lost revenue to local governments, that the canola plant is no lost revenue, HB50 does not affect it, and so why tie it to this bill. He reiterated that HB50 does not affect the canola plant. Representative Grady responded that he is not necessarily talking about lost revenue. Senator Lynch indicated that he is saying that HB50 is a replacement for whatever local governments lose, as he understands it, and asked if that is correct. Representative Grady responded that is correct. Senator Lynch continued that there is no loss of revenue on the canola end of it, so HB50 should not have an effect on canola because there is no lost revenue, which is the difference, that it is not an existing plant which they will lose like Stauffer Chemical. He added that Anhauser-Busch would not have been affected because it is not lost revenue, that it is not there yet.

Chairman Gage indicated that they would have a lot more clout behind HB50 with the amendment as it was originally prepared, than they do with excepting Class 5. Senator Lynch responded that all they can do by killing HB50 and passing these bills

is deny local government, hamstringing them to the tune of \$47 million a year, and that the only loser would be local government and school districts. Chairman Gage pointed out that they are saying, if this bill does not pass, and HB20 does, the canola bill remains. Senator Lynch responded yes. Chairman Gage continued that what he is saying is, from his perspective, they lose a lot of clout with regard to HB20, with an amendment that de-couples canola from it.

Vote: Substitute motion to include a coordinating instruction in HB20, and to provide that the section regarding Class 5 property not be tied to the passage of HB50 under the coordination clause failed in a tie vote, with Representative Schye, Representative Daily, and Senator Lynch in favor, and Representative Grady, Senator Gage and Senator Thayer opposed.

Chairman Gage indicated that they will revert to the original motion, and called for a vote.

Vote: Motion that HB20 be amended to include a coordinating instruction passed unanimously.

Chairman Gage reported that he needs to attend a meeting in the president's office, and asked that the committee recess for about 15 minutes.

Upon Chairman Gage's return, the committee reconvened.

Senator Thayer reported that, in the Senate, Senator Walker offered an amendment which would treat the existing canola plants in the same manner as the new one, but explained that the language was designed so that, if a new one does not come in which gets a tax break, the existing ones do not get a break either, that it is contingent upon a new one coming in. He pointed out that the first paragraph would have to be stricken because it speaks about after the effective date, and the language will have to be re-worked, which Mr. Petesch has not had time to do yet. Mr. Petesch noted that he has it, and Senator Thayer suggested that Mr. Petesch explain it. Mr. Petesch referred the committee to page 47 of the bill, line 8, and indicated that if they just put a colon after the word "that", and outline that to say "provided that subsection (a) operators of such facilities employ a minimum of 15 full-time employees", and insert a semi-colon there and then a new subsection (b), "a canola seed oil processing facility locates in the State of Montana after (the effective date of this act)." so that machinery and oil used in canola seed process-

ing facilities would be in this class, upon two conditions happening, that they employ at least 15 people in that facility, and the second trigger is that a new facility comes in. He indicated that, if either trigger is not met, the existing plants are not affected.

Motion: Senator Thayer offered a motion that HB20 be amended to provide that existing canola seed oil processing plants in the state not qualify for the reduced tax rate provided for in the bill, unless a new canola seed oil processing plant locates in the state.

Vote: Motion that HB20 be amended to provide that existing canola seed oil processing plants in the state not qualify for the reduced tax rate provided for in the bill, unless a new canola seed oil processing plant locates in the state, passed unanimously.

Senator Thayer indicated that he would like to offer a motion that the committee reconsider their action on the severability clause. He noted that he was the only one voting against the severability clause, and indicated he would like to explain why he voted that way, in hopes of talking the rest of the committee into going along with it. He then indicated that one of the complaints they always hear is that they do not have a consistent tax policy, and here they are trying to pass a bill which is going to be loaded with all kinds of loopholes, and they are saying that, if somebody challenges it and the court rules against it, it is automatically defeated, and, by God, they are not funding it, no way.

Senator Thayer pointed out that there is really no commitment, on the part of the Legislature, behind a bill like that and it seems to him that, if they are really trying to do something for jobs in the State of Montana, they should put forth something they are willing to put everything behind. He added that, if that means coming up with some kind of a new tax source, in the event the court would invalidate this for any reason, it seems to him that passage of the bill should have the full faith and credit of the legislators voting for it so they can tell the businesses and people of this state, the employees, and all of the people who will be affected by this major piece of legislation, that they fully intend to do this, that this is a consistent tax policy on the part of the people of Montana. He indicated that, by putting in that language, he believes they have said that they really do not mean this because, if those seven wise men do not like this, they are backing off, and he does not think that is the right message to send out there.

Senator Thayer indicated that Representative Daily said this is an important bill to him, that he voted for it and went on the line in the House to cause this committee to be formed, adding that he applauds him for what he did. He stated that, by God, he thinks it is up to them, now, to set the record straight and say they mean business, folks, that this is real, and is something they can depend on.

Motion: Senator Thayer offered a motion that the committee reconsider their action on the amendment to HB20 providing for a severability clause, for the purpose of taking a new vote on that issue.

Senator Lynch stated that he strongly resists the motion. He then indicated that this non-severability was in SB22, that it was agreed upon, by the Governor, that it would remain in there, but for them to pass a \$47 million bill, with the possibility that there is no money there, is totally irresponsible. He pointed out that they are obligated to have a balanced budget and, if they pass a bill, laudatory that it may be, which is found unconstitutional, and then say they will just go back in special session and find another means to fund it, that his vote is contingent upon the fact that there is a fund there, that there is something which he knows what is going on.

He further indicated that the very agreement from the Governor's office was that the non-severability was in SB22, that the Governor repeatedly said there was to be no black holes, but that this is an enormous black hole they are leaving. Senator Lynch noted that they are close, albeit not a very good thing to him because there is a combination of bills, but that to say that, if the bill should pass without a funding source and, if the funding source in it is unconstitutional and all of a sudden the state is in the red to the tune of close to \$100 million, is totally irresponsible.

Senator Thayer stated that he disagrees, obviously, or he would not have made the motion. He indicated that he thinks this is so important to the economic vitality of Montana, that he does not care how they fund it, they should fund it and this is the only way they are ever going to get the state moving. He added that he thinks it deserves a special session, if that is necessary, that it deserves whatever it takes to get this thing funded, and funded properly, and to send out the right signal to all of those people who may come to this state but, in particular, to the people who are already here. He added that those businesses which are

struggling to stay in business and employ people in this state are the same people, in the same jobs, who are sending their kids to school, that they are trying to find money for them and the whole thing is tied together. He stated that, if they do not do something to get Montana moving, economically, the school situation will solve itself because there will not be any kids here to educate, pretty soon. He indicated that he thinks it deserves their full faith and backing, adding that, if the Governor had another view, that is the Governor's view, not his, that he has not consulted with him about it.

Representative Daily stated that, ideally, it would be nice to do what Senator Thayer is saying, that it would be nice to have a permanent source of funding by which they could offer personal property tax relief, but they do not have that and this is the best that they have, right now before them, that this is the only mechanism. He indicated that this mechanism does have some funding in it, noting that, as Senator Lynch said, if they do what Senator Thayer is saying and pass this bill without some kind of replacement revenue, they will be back here looking for \$47 million. He then said, let's face reality, here, that they have to face reality every once in a while around this joint. He pointed out that they can not find money to fund the school system, and asked how the hell are they going to find \$47 million to fund personal property tax relief, if they do not use this mechanism. He added that it sounds nice but is not realistic, that what they are saying is not realistic.

Representative Grady indicated that he appreciates what Senator Thayer is trying to do, too, and pointed out that he looks at the problem with workers compensation which has over a \$200 million, maybe a \$250 million hole, which he is sure they will have to bail out sooner or later, and the school thing, too, will probably end up with an unfunded balance, if they ever pass one out of here. He stated that he would like to do this and thinks they could probably come up with the money, that, sooner or later, they are going to have to but, to keep adding to the debt they have now, he would have a problem with it.

Vote: Motion that the committee reconsider their action on the amendment to HB20 providing for a severability clause, for the purpose of taking a new vote on that issue failed, with Senator Thayer in favor, and Representative Daily, Representative Grady, Representative Schye, Senator Gage and Senator Lynch opposed.

FREE CONFERENCE COMMITTEE ON HB 20

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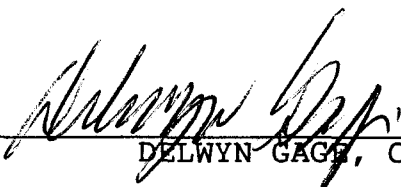
Motion: Senator Thayer offered a motion that the committee accept the Conference Committee Report.

Representative Schye asked what the Conference Committee Report will have, besides the amendments they added on it. Representative Daily responded HB20, as it was received in the House. Chairman Gage added, as the House received it, plus the amendments of the Conference Committee.

Vote: Motion that the committee accept the Conference Committee Report passed with Representative Daily, Representative Grady, Senator Gage, Senator Lynch and Senator Thayer in favor, and Representative Schye opposed.

ADJOURNMENT

Adjournment At: 3:20 p.m.



DELWYN GAGE, Chairman

DG/mhu
FCCHB20.711

ROLL CALL

FREE CONFERENCE COMMITTEE ON HB 20
51ST LEGISLATIVE SPECIAL SESSION

DATE:

July 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DELWYN GAGE	✓		
SENATOR J. D. LYNCH	✓		
SENATOR GENE THAYER	✓		
REP. FRITZ DAILY	✓		
REP. TED SCHYE	✓		
REP. ED GRADY	✓		

DATE 7/11/89
BILL NO. FCCHB20

State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

STAN STEPHENS
GOVERNOR

MEMORANDUM

DATE: July 7, 1989
TO: Senator Del Gage
FROM: Rick Bartos, Chief Legal Counsel *Rick Bartos*
RE: Water Projects and Governor's personal property tax bill.

Attached please find a copy of a legal memorandum received by bond counsel Mae Nan Ellingson of the Dorsey-Whitney Law Firm. The memorandum clarifies an earlier memorandum that has been misused by individuals opposed to the Governor's personal property tax reduction bill.

This memorandum provides that her original memorandum "recommended proceeding in the most conservative manner possible." It also provided that her original memorandum reviewed the initial bill without any of the amendments that were placed in the bill by the Senate.

Most notable, a conservative bond counsel opinion provides substantiation that a 2/3 vote is not required to substitute the source of payment for a debt that has been duly authorized and approved by the requisite majority. Dorsey and Whitney would defend the state's position on this matter.

It is the opinion of Department of Natural Resources and Conservation that no water project enacted by House Bill 778 are

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in jeopardy. The bond rating is not affected.

The argument that the bill violates the Montana Constitution in that the legislature has not authorized the state to incur debt for the water project is false. The legislature has already provided a 2/3 vote for the state to incur the debt through the passage of House Bill 778. The Constitutional provision has been satisfied. House Bill 778 and the amendments to the Governor's personal property tax bill pledges monies necessary to secure the past, present and any future obligations as a result of the water projects.

We have also communicated with Dorsey and Whitney attorneys Bill Johnstone, Minneapolis office, and Jim Manning, bond counsel with the Great Falls office.

I have also attached a legal memorandum that addresses the other constitutional challenge regarding the ability of the legislature to divert the coal severance tax. It is self-explanatory. If you have any questions, please contact me, Dave Darby or Karen Barclay.

DORSEY & WHITNEY

DATE 7/11/89
BILL NO. FCC HB20

MEMORANDUM

VIA FACSIMILE

TO: Karen Barclay, Director
Department of Natural Resources & Conservation

Dave Ashley, Director
Department of Administration

Caralee Cheney, Chief
Water Development Bureau

FROM: Dorsey & Whitney
Mae Nan Ellingson *Mae Nan Ellingson*

DATE: July 7, 1989

RE: S.B. 22

In connection with our memorandum to you dated June 28, 1989 and the proposed amendments to Senate Bill 22, you have asked for clarification as to why we concluded that the sections of the bill pledging and appropriating the coal privilege tax to the payment of the outstanding and authorized coal severance tax bonds required approval by a 2/3 vote of each house of the legislature.

In drafting the proposed amendments, we recommended proceeding in the most conservative manner possible to resolve any doubts that the act of reducing the coal severance tax and replacing it with the coal privilege tax did not violate the State's contractual obligation with the bondholders and did not violate the State constitutional requirement that debt be authorized by a 2/3 vote of each house of the legislature.

DORSEY & WHITNEY

BILL NO. FCC HB20

Ms. Karen Barclay
Mr. Dave Ashley
Ms. Caralee Cheney

July 7, 1989
Page 2

This specific issue, i.e., what is required by the constitution to substitute one stream of revenue for another stream of revenue pledged to the repayment of a duly authorized debt, has not been addressed by the Montana supreme court.

We believe it is arguable that a 2/3 vote is not required to substitute the source of payment for a debt that has been duly authorized and approved by the requisite majority, as is the case with the State's outstanding and authorized coal severance tax bonds and those authorized to be issued by H.B. 778.

Sections 17 and 18 of S.B. 22 do not attempt to create a new debt, but rather pledge the coal privilege tax to the payment of the coal severance tax bonds and authorize the previously approved coal severance tax bonds to be issued as coal privilege tax bonds, and thus it is arguable that these sections do not require approval by a 2/3 vote of each house of the legislature.

It should be noted that the concern raised in our earlier memorandum regarding the ability to issue bonds authorized by H.B. 778 dealt more with the fact that S.B. 22 as originally proposed made no reference to those bonds, and without the amendments we suggested, which have now been incorporated into S.B. 22 at Section 17 and 18, those bonds could not be issued.

MNE:mb

DATE 7/11/89
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DATE: June 26, 1989

MEMORANDUM

TO: Governor Stan Stephens

FROM: Rick Bartos, Legal Counsel *(See Encl)*

ISSUE: Whether the Montana Legislature may, by majority vote, alter, amend or delete the Coal Severance Tax found in Section 15-35-101, et seq., MCA, without violating Article IX, Section 5, of the Montana Constitution.

Coal Severance Tax is not constitutionally mandated. What is mandated is that if there be a coal severance tax, 50% of that tax shall be allotted to the Permanent Trust Fund. The power of taxation remains with the legislative branch of government. The legislature has the power to replace the coal severance tax. It may also impose a comparable privilege tax. Regardless of the method of taxation, the Coal Severance Tax would be reduced.

The legislature has previously exercised such powers with the Coal Severance Tax. They have also taxed natural resources by net and gross proceeds. To suggest that the legislature cannot alter the Coal Severance Tax would mean that at the time of the adoption of the Montana constitutional language the legislature was:

- (1) Obligated to impose the coal severance tax at the same rate and in the same manner in perpetuity;
- (2) Would be permanently prohibited from altering the coal

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severance tax without a constitutional change. Both instances call for absurd results. Neither statutory nor constitutional construction should lead to absurd results, if reasonable construction will avoid it. Grossman v. State of Montana, 682 P.2d 1319 (Mont. 1984).

Previous legislative enactments have recognized the volatile nature of coal severance taxation. See Sections 15-35-101 through 15-35-205, MCA.

Section 15-35-108, MCA, states in part that severance taxes collected under this chapter [chapter 35] are to be allocated in a means provided by Article IX, Section 5 of the Montana Constitution. The history of legislative changes to this enactment dates back to 1973 (Sec. 2, Chapter 432, L. 1973) and as recently as the 1989 Montana legislature. Alteration of taxation method required simple majority vote of each house of the legislature.

The proposed legislation affect is not retroactive. It is prospective. The legislation does not alter or reduce or impede the present Permanent Coal Trust Fund.

The Montana Constitution specifically provides that taxes shall be levied by general laws for public purposes. Article VIII, Sec. 1, Montana Constitution. There is no prohibition of the elimination of a particular tax. Further, the power to tax, which implies the authority not to impose a tax, remains with the legislature, shall never be surrendered, suspended or constructed away. Article VIII, Sec. 2, Montana Constitution.

EXHIBIT NO. 1
DATE 7/11/89
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CONCLUSION: The Montana Legislature may, by majority vote of both houses, alter, amend, reduce or delete the Coal Severance Tax found in Section 15-35-101, et seq., MCA, without violating Article IX, Section 5, of the Montana Constitution.

BILL NO FCC HB20

RESOURCE INDEMNITY TRUST INTEREST INCOME

(\$12.9 MILLION/BIENNIUM FY88-89 ESTIMATE)

ENVIRONMENTAL CONTINGENCY ACCOUNT
(UP TO \$175,000/BIENNIUM)
75-1-1101

4% (\$500,000 /Biennium)	46% (\$5.8 M/B)	8% (\$1 M/B)	12% (\$1.5 M/B)	30% (\$3.8 M/B)
FY90	FY 90	FY90	FY88	15-38-202 FY82

ENVIRONMENTAL QUALITY PROTECTION FUND
75-10-704

DHES - HAZARDOUS WASTE/ CERCLA ACCOUNT
75-10-821

RECLAMATION AND DEVELOPMENT GRANTS PROGRAM (RDG)
90-2-1104

RENEWABLE RESOURCE DEVELOPMENT PROGRAM (RRD)
Title 90, Chapter 2

RANGE LAND IMPROVEMENT LOAN
(\$180,000 FOR
BIENNIAL FUNDING
8/20/88) 88373

WATER DEVELOPMENT PROGRAM (WDP)
SPECIAL REVENUE ACCOUNT
85-1-804

- 1. WATER DEVELOPMENT GRANT PROGRAM
- 2. WATER DEVELOPMENT PRIVATE LOAN PROGRAM - LOAN REPAYMENTS
- 3. STATE OWNED WATER PROJECT REHABILITATION
- 4. OPERATIONS - WATER DEVELOPMENT PROGRAM
- 5. WATER COURTS

COAL SEVERANCE TAX

(\$122.9 MILLION/BIENNIUM FY88-89 ESTIMATE)

38% (\$48.7 M/B)	12% (\$14.78 M/B)	50% (\$51.48 M/B)
15-35-108	15-35-108 FY88-FY93	Article IX, Sec. 5, Montana Constitution

1.25% VARIOUS PROGRAMS
FY 90

- 30% - LOCAL IMPACT AND EDUCATION TRUST FUND ACCOUNT
- 17.8% - LOCAL IMPACT ACCOUNT
- 10% - STATE DEEMALIZATION AID TO PUBLIC SCHOOLS
- 8% - NONRESPONSIBLE TRUST FUND FOR PAROL SUPER OF ART IN STATE CAPITOL AND OTHER CULTURAL AND AESTHETIC PROJECTS
- 4.9% - ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT AND DEMONSTRATION ACCOUNT
- 2% - MONTANA GROWTH THROUGH AGRICULTURE ACCOUNT
- 1% - COUNTY LAND PLANNING ACCOUNT
- 1% - BASIC LIBRARY SERVICES THROUGH LIBRARY FEDERATIONS AND NETWORKING
- 1/2 OF 1% - CONSERVATION DISTRICTS
- REMAINDER TO GENERAL FUND

RENEWABLE RESOURCE DEVELOPMENT BOND FUND
SPECIAL REVENUE ACCOUNT

HIGHWAY RECONSTRUCTION TRUST FUND ACCOUNT

BOND FUND SUBACCOUNT
TRUST FUND SUBACCOUNT
TRUST FUND INTEREST INCOME SUBACCOUNT

100% GENERAL FUND

COAL SEVERANCE TAX - BOND PROGRAM

Amendments to House Bill No. 20
Reference Reading Copy

For Conference Committee

Prepared by Lee Heiman
July 11, 1989

1. Page 66, lines 2 through 6.

Strike: "Nonseverability" on line 2 through "invalid." on line 6

Insert: "Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

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BILL NO. FCC HB20

SUGGESTED AMENDMENT TO HOUSE BILL 20

PAGE 66, LINE 7, INSERT:

NEW SECTION. SECTION 60. COORDINATION INSTRUCTIONS. IF
HOUSE BILL 50 IS NOT PASSED AND APPROVED, (THIS ACT) IS VOID.

RENUMBER FOLLOWING SECTION:

DATE 7/11/89
BILL NO. FCC HB20

SUGGESTED AMENDMENTS TO HOUSE BILL 20

PAGE 2, LINE 11, STRIKE: (g) machinery and equipment used in canola seed oil processing facilities PROVIDED THAT THE OPERATORS OF SUCH FACILITIES EMPLOY A MINIMUM OF 15 FULL-TIME EMPLOYEES AND LOCATE IN THE STATE OF MONTANA AFTER (THE EFFECTIVE DATE OF THIS ACT).

PAGE 2, LINE 11, INSERT: (g) MACHINERY AND EQUIPMENT USED IN CANOLA SEED OIL PROCESSING FACILITIES PROVIDED THAT SUCH FACILITIES LOCATE IN THE STATE OF MONTANA AFTER THE EFFECTIVE DATE OF THIS ACT AND EMPLOY A MINIMUM OF 15 FULL-TIME EMPLOYEES.

(h) IF A NEW FACILITY QUALIFIES FOR THE REDUCED TAX RATE PROVIDED BY SECTION (1), PART (g) OF THIS ACT, ALL EXISTING CANOLA SEED PROCESSING FACILITIES EMPLOYING A MINIMUM OF 15 FULL-TIME EMPLOYEES WILL QUALIFY FOR THE SAME RATE.

Amendments to House Bill No. 20
Reference Reading Copy

Requested by Free Conference Committee

Prepared by Greg Petesch
July 11, 1989

Mr. President and Mr. Speaker:

We, your Free Conference Committee on House Bill No. 20, met and considered:

House Bill No. 20 in its entirety.

We recommend that House Bill No. 20 (reference copy -- salmon) be amended as follows:

1. Title, page 2, line 4.

Following: ";

Insert: "PROVIDING SEVERABILITY AND NONSEVERABILITY PROVISIONS;
PROVIDING A COORDINATION PROVISION;"

2. Page 47, line 8.

Following: "that"

Insert: ":(i)"

3. Page 47, line 9.

Following: "employees"

Insert: ";

4. Page 47, line 10.

Strike: "locate"

Insert: "(ii) a canola seed oil processing facility locates"

5. Page 66, line 3.

Strike: "this act"

Insert: "sections 1 through 40 and 42 through 55"

Strike: "is"

Insert: "are"

6. Page 66, line 5.

Following: "parts"

Insert: "of [sections 1 through 40 and 42 through 55]"

7. Page 66, line 7.

Following: line 6

Insert: "NEW SECTION. Section 60. Severability. If a part of [this act] is invalid, [section 41] is severable from [this act] and remains in effect in all valid applications."

NEW SECTION. Section 61. Coordination. If House Bill No.

50 is not passed and approved, [this act] is void."
Renumber: subsequent section

And that this Free Conference Committee Report be adopted.

For the Senate:

For the House:

Sen. Gage, Chairman

Rep. Daily, Chairman

Sen. Thayer

Rep. Schye

Sen. Lynch

Rep. Grady

Amendments to House Bill No. 20
Reference Reading Copy

Requested by Representative Daily
For the Free Conference Committee

Prepared by Greg Petesch
July 1, 1989

1. Title, line 17.

Strike: "FIVE"

Insert: "SIX"

2. Title, page 2, line 1.

Strike: "15-6-135, 15-6-137,"

Insert: "15-6-136 THROUGH"

3. Page 46, line 11 through page 49, line 21.

Strike: section 41 in its entirety

Insert: "Section 41. Section 15-6-136, MCA, is amended to read:

"15-6-136. Class six property -- description -- taxable
percentage. (1) Class six property includes:

(a) livestock and other species of domestic animals and
wildlife raised in domestication or a captive environment, except
for cats, dogs, and other household pets not raised for profit;

(b) items of personal property intended for lease in the
ordinary course of business, provided each item of personal
property satisfies all of the following:

(i) the full and true value of the personal property is
less than \$5,000;

(ii) the personal property is owned by a business whose
primary business income is from rental or lease of personal
property to individuals wherein no one customer of the business
accounts for more than 10% of the total rentals or leases during
a calendar year; and

(iii) the lease of the personal property is generally on an
hourly, daily, or weekly basis; and

(c) machinery and equipment used in a malting barley
facility; and

(d) machinery and equipment used in canola seed oil
processing facilities provided that the operators of such
facilities employ a minimum of 15 full-time employees and locate
in the state of Montana after [the effective date of this act].

(2) "Malting barley facility" means a facility the
principal purpose of which is to malt malting barley. The term
does not apply to a facility the principal purpose of which is to
store, mix, blend, transport, transfer, or otherwise do anything
with malting barley, except malt malting barley. However, any
machinery or equipment the principal purpose of which is to
store, mix, blend, transport, transfer, or otherwise handle
malting barley or other machinery or equipment that is used in or
is otherwise an integral part of a facility that malts malting
barley is machinery or equipment of a malting barley facility for
the purposes of this section.

(3) "Canola seed oil processing facility" means a facility

EXHIBIT NO. 6 pg 2

DATE 7/11/89

BILL NO. FCC HB20

that:

(a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and packages the edible oil into food products, or engages in any one or more of those processes; and

(b) employs at least 15 employees in a full-time capacity.

(3)(4) Class six property is taxed at 4% of its market value."

Page 1 of 6

Mr. Speaker and Mr. President:

We, your Free Conference Committee on HOUSE BILL 20 met and considered:

House Bill 20 in its entirety.

We recommend that HOUSE BILL 20 (reference copy -- salmon) be amended as follows:

1. Title, page 1, lines 14 through 17.

Strike: "REVISING" on line 14 through "DISTRICTS;" on line 16

Insert: "PHASING IN A REDUCTION IN THE TAX RATE FOR CLASS EIGHT PROPERTY;"

Strike: "FIVE" on line 17

Insert: "SIX"

2. Title, page 1, lines 18 through 21.

Strike: "IMPOSING" on line 18 through "PERCENT;" on line 21

Insert: "PROVIDING AN APPROPRIATION TO SCHOOL DISTRICTS AND LOCAL GOVERNMENTS TO REIMBURSE MONEY LOST THROUGH PERSONAL PROPERTY TAX REDUCTIONS;"

3. Title, page 1, lines 22 through 25.

Strike: "7-1-2111," on line 22 through "7-34-2131," on line 25

4. Title, page 2, line 1.

Strike: "15-6-135, 15-6-137,"

Insert: "15-6-136 THROUGH"

Following: "15-24-1102,"

Insert: "AND 17-7-502,"

5. Title, page 2, lines 2 and 3.

Strike: "15-35-103," on line 2 through "20-9-502," on line 3

6. Title, page 2, line 5.

Following: "AND"

Insert: "AN"

Strike: "DATES"

Insert: "DATE"

7. Page 2, lines 7 through 15.

Strike: Statement of intent in its entirety

8. Page 2, line 20 through page 41, line 21.

Strike: sections 1 through 39 in their entirety

Renumber: subsequent sections

9. Page 46, line 11 through page 49, line 21.

Strike: section 41 in its entirety

Insert: "Section 2. Section 15-6-136, MCA, is amended to read:

"15-6-136. Class six property -- description -- taxable percentage. (1) Class six property includes:

(a) livestock and other species of domestic animals and wildlife raised in domestication or a captive environment, except for cats, dogs, and other household pets not raised for profit;

(b) items of personal property intended for rent or lease in the ordinary course of business, provided each item of personal property satisfies all of the following:

(i) the full and true value of the personal property is less than \$5,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; and

(c) machinery and equipment used in a malting barley facility; and

(d) machinery and equipment used in canola seed oil processing facilities if:

(1) the operators of such facilities employ a minimum of 15 full-time employees; and

(ii) a canola seed oil processing facility locates in the state of Montana after [the effective date of this act].

(2) "Malting barley facility" means a facility the principal purpose of which is to malt malting barley. The term does not apply to a facility the principal purpose of which is to store, mix, blend, transport, transfer, or otherwise do anything with malting barley, except malt malting barley. However, any machinery or equipment the principal purpose of which is to store, mix, blend, transport, transfer, or otherwise handle malting barley or other machinery or equipment that is used in or is otherwise an integral part of a facility that malts malting barley is machinery or equipment of a malting barley facility for the purposes of this section.

(3) "Canola seed oil processing facility" means a facility that:

(a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and packages the

ADOPT

REJECT

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HB 20

edible oil into food products, or engages in any one or more of those processes; and

(b) employs at least 15 employees in a full-time capacity.

(4) Class six property is taxed at 4% of its market value."

10. Page 52, line 24.

Strike: "61"

Insert: "98"

11. Page 54, line 25 through page 64, line 23.

Strike: sections 48 through 54 in their entirety

Insert: "NEW SECTION. Section 9. Reimbursement to local governments and schools -- duties of department and county treasurer -- statutory appropriation. (1) (a) On or before May 1, 1990, the department of revenue shall remit to the county treasurer of each county 30% of the reimbursement amount specified in subsection (1) (b), as computed by the department. The department shall base the reimbursement on the reduction in personal property tax revenues due to the reduction in personal property tax rates for class eight property, as provided for in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145 and 15-6-147. The reimbursement basis must also include loss of personal property tax revenue due to the reclassification of new industrial property from class five to class eight with the reduced tax rate. The determination of the reimbursement basis must be made in the year in which the reclassification is made.

(b) The reimbursement revenue must be based on the county's taxable value and mill levies for tax year 1989.

(2) Prior to September 1, 1990, the department's agent in the county shall supply the following information to the department for each taxing jurisdiction within the county:

(a) the number of mills levied in the jurisdiction for taxable year 1989;

(b) the number of mills levied in the jurisdiction for taxable year 1990;

(c) the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property not secured by real property; and

(d) the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property secured by real property.

(3) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies,

due to the annual reduction in personal property tax rates set forth in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145 and 15-6-147. The department shall total the amounts for all taxing jurisdictions within the county.

(4) For taxable year 1990 and for each year thereafter, the department shall remit to the county treasurer the base amount of revenue reimbursable, determined pursuant to subsection (3), as follows:

(a) on or before November 30, 1990, and on or before each November 30 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county; and

(b) on or before May 31, 1991, and on or before each May 31 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county.

(5) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as current year mill levies on personal property taxes are distributed.

(6) For the purposes of this section, "taxing jurisdiction" means local governments and includes school districts, each municipality with tax increment financing, and the state of Montana.

(7) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse school districts and local governments for reductions in tax rates on personal property.

Section 10. Section 17-7-502, MCA, is amended to read: "17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-

31-702; 15-36-112; 15-37-117; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985; and [section 9].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

12. Page 65, lines 1 and 2.

Strike: "(1)" on line 1 through "[this]" on line 2

Insert: "[This]"

13. Page 65, lines 4 through 6.

Strike: subsection (2) in its entirety

14. Page 65, lines 7 and 8.

Strike: "-- contingency"

15. Page 65, lines 8 through 22.

Strike: "(1)" on line 8 through "1990" on line 22

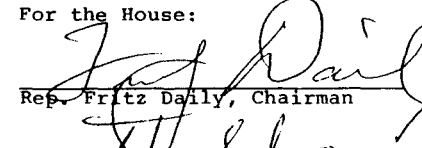
Insert: "[This act] applies to tax years beginning after December 31, 1989"

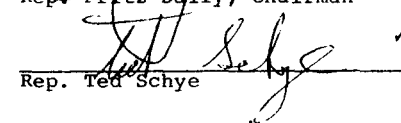
16. Page 65, line 23 through page 66, line 10.

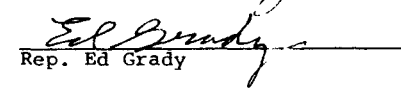
Strike: sections 58 through 60 in their entirety

And that this Free Conference Committee Report be adopted.

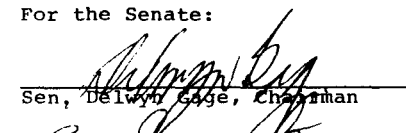
For the House:

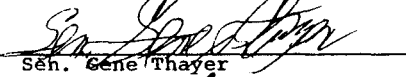

Rep. Fritz Daily, Chairman


Rep. Ted Schye


Rep. Ed Grady

For the Senate:


Sen. Delwyn Gage, Chairman


Sen. Gene Thayer


Sen. J.D. Lynch

Mazurek, McLane, Meyer, Nathe, Norman, Pinsoneault, Pipinich, Rapp-
Syrcek, Rasmussen, Severson, Stimatz, Thayer, Van Valkenburg, Vaughn,
Williams.
Total 31

Noes: Abrams, Aklestad, Blaylock, Boylan, Crippen, Eck, Harding,
Hofman, Jergeson, Keating, Lynch, Noble, Regan, Tveit, Walker, Weeding,
Yellowtail, Mr. President.
Total 18

Excused: Story.
Total 1

Absent or not voting: None.
Total 0

Senator Gage moved the committee rise and report and beg leave to sit
again. Motion carried. Committee arose. Senate resumed, Mr. President in
the chair. Chairman Devlin moved the adoption of the committee report.
Report adopted.

REPORTS OF SELECT COMMITTEES

Free Conference Committee
on House Bill 20
Report No. 9, July 13, 1989

Mr. President and Mr. Speaker:

We, your Free Conference Committee on House Bill 20 met and consid-
ered:

HB 20 in its entirety.

We recommend that House Bill 20 (reference copy — salmon) be amended
as follows:

1. Title, page 1, lines 14 through 17.

Strike: "REVISING" on line 14 through "DISTRICTS;" on line 16

Insert: "PHASING IN A REDUCTION IN THE TAX RATE FOR
CLASS EIGHT PROPERTY;"

Strike: "FIVE" on line 17

Insert: "SIX"

2. Title, page 1, lines 18 through 21.

Strike: "IMPOSING" on line 18 through "PERCENT;" on line 21

Insert: "PROVIDING AN APPROPRIATION TO SCHOOL DIS-
TRICTS AND LOCAL GOVERNMENTS TO REIMBURSE
MONEY LOST THROUGH PERSONAL PROPERTY TAX
REDUCTIONS;"

3. Title, page 1, lines 22 through 25.

Strike: "7-1-2111," on line 22 through "7-34-2131," on line 25

4. Title, page 2, lines 1 and 2.

Strike: "15-6-135, 15-6-137,"

Insert: "15-6-136 THROUGH"

Following: "15-24-1103, on line 2"

Insert: "AND 17-7-502,"

5. Title, page 2, lines 2 and 3.

Strike: "15-35-103," on line 2 through "20-9-502," on line 3

6. Title, page 2, line 5.

Following: "AND"

Insert: "AN"

Strike: "DATES"

Insert: "DATE"

7. Page 2, lines 7 through 15.

Strike: Statement of intent in its entirety

8. Page 2, line 20 through page 41, line 21.

Strike: sections 1 through 39 in their entirety

Re-number: subsequent sections

9. Page 46, line 11 through page 49, line 21.

Strike: section 41 in its entirety

Insert: "Section 2. Section 15-6-136, MCA, is amended to read:

"15-6-136. Class six property — description — taxable percentage.

(1) Class six property includes:

(a) livestock and other species of domestic animals and wildlife raised in domestication or a captive environment, except for cats, dogs, and other household pets not raised for profit;

(b) items of personal property intended for rent or lease in the ordinary course of business, provided each item of personal property satisfies all of the following:

(i) the full and true value of the personal property is less than \$5,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis; ~~and~~

(c) machinery and equipment used in a malting barley facility; and

(d) machinery and equipment used in canola seed oil processing facilities if:

(i) the operators of such facilities employ a minimum of 15 full-time employees; and

(ii) a canola seed oil processing facility locates in the state of Montana after [the effective date of this act].

(2) "Malting barley facility" means a facility the principal purpose of which is to malt malting barley. The term does not apply to a facility the principal purpose of which is to store, mix, blend, transport, transfer, or otherwise do anything with malting barley, except malt malting barley. However, any machinery or equipment the principal purpose of which is to store, mix, blend, transport, transfer, or otherwise handle malting barley or other machinery or equipment that is used in or is otherwise an integral part of a facility that malts malting barley is machinery or equipment of a malting barley facility for the purposes of this section.

(3) "Canola seed oil processing facility" means a facility that:

(a) extracts oil from canola seeds, refines the crude oil to produce edible oil, formulates and packages the edible oil into food products, or engages in any one or more of those processes; and

(b) employs at least 15 employees in a full-time capacity.

~~(3)~~(4) Class six property is taxed at 4% of its market value.””

Renumber: subsequent sections

10. Page 49, line 23.

Strike: “41”

Insert: “2”

11. Page 52, line 24.

Strike: “6%”

Insert: “9%”

12. Page 54, line 25 through page 64, line 23.

Strike: sections 48 through 54 in their entirety

Insert: “NEW SECTION. Section 9. Reimbursement to local governments and schools — duties of department and county treasurer — statutory appropriation. (1) (a) On or before May 1, 1990, the department of revenue shall remit to the county treasurer of each county 30% of the reimbursement amount specified in subsection (1)(b), as computed by the department. The department shall base the reimbursement on the reduction in personal property tax revenues due to the reduction in personal property tax rates for class eight property, as provided for in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145 and 15-6-147. The reimbursement basis must also include loss of personal property tax revenue due to the reclassification of new industrial property from class five to class eight with the reduced tax rate. The determination of the reimbursement basis must be made in the year in which the reclassification is made.

(b) The reimbursement revenue must be based on the county’s taxable value and mill levies for tax year 1989.

(2) Prior to September 1, 1990, the department’s agent in the county shall supply the following information to the department for each taxing jurisdiction within the county:

(a) the number of mills levied in the jurisdiction for taxable year 1989;

(b) the number of mills levied in the jurisdiction for taxable year 1990;

(c) the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property not secured by real property; and

(d) the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property secured by real property.

(3) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property tax rates set forth in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property

in 15-6-145 and 15-6-147. The department shall total the amounts for all taxing jurisdictions within the county.

(4) For taxable year 1990 and for each year thereafter, the department shall remit to the county treasurer the base amount of revenue reimbursable, determined pursuant to subsection (3), as follows:

(a) on or before November 30, 1990, and on or before each November 30 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county; and

(b) on or before May 31, 1991, and on or before each May 31 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county.

(5) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as current year mill levies on personal property taxes are distributed.

(6) For the purposes of this section, "taxing jurisdiction" means local governments and includes school districts, each municipality with tax increment financing, and the state of Montana.

(7) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse school districts and local governments for reductions in tax rates on personal property.

Section 10. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985; and [section 9].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

13. Page 65, lines 1 and 2.

Strike: "(1)" on line 1 through "[this" on line 2

Insert: "[This"

14. Page 65, lines 4 through 6.

Strike: subsection (2) in its entirety

15. Page 65, lines 7 and 8.

Strike: "— contingency"

16. Page 65, lines 8 through 22.

Strike: "(1)" on line 8 through "1990" on line 22

Insert: "[This act] applies to tax years beginning after December 31, 1989"

17. Page 65, line 23 through page 66, line 10.

Strike: sections 58 through 60 in their entirety

and that this free conference committee report be adopted.

For the Senate:

Gage
Thayer
Lynch

For the House:

Daily
Schye
Grady

Report adopted.

MOTIONS

HB 28 - Senator Mazurek moved that HB 28 be taken from third reading and return to second reading this day for an amendment to attach the schedules. Motion carried.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Gage moved that the Senate resolve itself into a committee of the whole for the consideration of business on second reading. Motion carried. Senator Devlin in the chair.

HB 28 - Senator Mazurek moved that HB 28 be amended as follows:

1. Page 75, line 13.

Strike: "\$23,703"

Insert: "\$23,646"

2. Page 75, line 17.

Strike: "\$23,703"

Insert: "\$23,646"

Strike: "\$991"

HOUSE BILL NO. 20

INTRODUCED BY DAILY, QUILICI, PAVLOVICH, LYNCH,
D. BROWN, JACOBSON, HARRINGTON, MENAHAN, KILPATRICK,
DRISCOLL, ADDY, KIMBERLEY, WHALEN, REHBERG, HANNAH,
RAMIREZ, PATTERSON, MCDONOUGH, GLASER, STIMATZ,
BLAYLOCK, KEATING, BISHOP, HAGER, REGAN,
SIMON, COMPTON, ROTH, PHILLIPS

A BILL FOR AN ACT ENTITLED: ~~"AN ACT TO CLASSIFY AS CLASS FIVE SIX PROPERTY THE EQUIPMENT AND MACHINERY USED TO PROCESS AND PACKAGE CANOLA SEED OIL; AMENDING SECTION 15-6-135, MCA, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~
~~"AN ACT REDUCING TO A SINGLE RATE THE PROPERTY TAX RATE ON CERTAIN PERSONAL PROPERTY; COMBINING PERSONAL PROPERTY CLASSES; REVISING COUNTY CLASSIFICATIONS AND DEBT AND LEVY LIMITATIONS OF LOCAL GOVERNMENTS, INCLUDING SCHOOL DISTRICTS, PHASING IN A REDUCTION IN THE TAX RATE FOR CLASS EIGHT PROPERTY; CLASSIFYING AS CLASS FIVE SIX PROPERTY THE EQUIPMENT AND MACHINERY USED TO PROCESS CANOLA SEED OIL; IMPOSING A PRIVILEGE TAX ON THE EXTRACTION OF COAL AND ALLOCATING THE MONEY, PROVIDING A PRIVILEGE TAX CREDIT, PROVIDING WATER BOND BACKING; REDUCING THE SEVERANCE TAX ON COAL TO 1 PERCENT, PROVIDING AN APPROPRIATION TO SCHOOL DISTRICTS AND LOCAL GOVERNMENTS TO REIMBURSE MONEY LOST THROUGH PERSONAL PROPERTY TAX REDUCTIONS; AMENDING SECTIONS~~

~~7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-1071, 7-7-1001, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-1061, 7-31-1071, 7-34-2131, 15-1-101, 15-6-135, 15-6-137, 15-6-136 THROUGH 15-6-138, 15-10-402, 15-24-1102, 15-24-1103, AND 17-7-502, 15-35-103, 19-11-503, 19-11-504, 20-9-343, 20-9-406, 20-9-407, AND 20-9-502, MCA; REPEALING SECTIONS 15-6-139, 15-6-140, AND 15-6-146, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATES DATE."~~

STATEMENT OF INTENT

~~A statement of intent is required for this bill because {section 12} requires the department of revenue to adopt rules to implement a privilege tax on extraction of coal. It is the intent of the legislature that the department adopt rules that address, at a minimum, reporting forms to be used by persons required to pay the privilege tax on coal and other rules as may be necessary to implement and administer the tax on coal.~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Third Reading Bill)

Strike everything after the enacting clause and insert:

~~NEW SECTION. Section 1. Imposition and rate of~~



1 privilege--tax--on--coal:---The-rate-of-the-privilege-tax-on
2 coal-is-as-follows:

3 {1}--After-June-30,1989,--and-before-July-1,1990:

4 Heating-quality	Surface--	Underground
5 {Btu-per-pound	Mining--	Mining---
6 ---of-coal}:	-	
7 Under-7,000	16%--of--contract	2%--of--contract
8	sales-price	sales-price
9 7,000-and-over	24%--of--contract	3%--of--contract
10	sales-price	sales-price

11 {2}--After-June-30,1990,--and-before-July-1,1991:

12 Heating-quality	Surface--	Underground
13 {Btu-per-pound	Mining--	Mining---
14 ---of-coal}:	-	
15 Under-7,000	12%--of--contract	2%--of--contract
16	sales-price	sales-price
17 7,000-and-over	19%--of--contract	3%--of--contract
18	sales-price	sales-price

19 {3}--After-June-30,1991:

1 Heating-quality	Surface--	Underground
2 {Btu-per-pound	Mining--	Mining---
3 ---of-coal}:	-	
4 Under-7,000	9%--of--contract	2%--of--contract
5	sales-price	sales-price
6 7,000-and-over	14%--of--contract	3%--of--contract
7	sales-price	sales-price

8 NEW-SECTION: **Section-2:** Definitions.---As---used---in
9 {sections-1-through-18} the-following-definitions-apply:

10 {1}--"Agreement"--means-a-signed-contract-that-is-valid
11 under-Montana--law--between--a--coal--mine--operator--and--a
12 purchaser-or-broker-for-the-sale-of-coal-that-is-produced-in
13 Montana:

14 {2}{a}--"Base-consumption-level"--for-a-purchaser,--except
15 as--provided-in-subsection-{2}{b},--applies-only-for-the-term
16 of-an-agreement-in-effect-as-of-December-31,1984,--and-means
17 the-lessor-of:

18 {i}--the-volume-of-coal-purchased-during-calendar--year
19 1986-from-all-Montana-coal-mine-operators,--or

20 {ii}--the-greater-of:

21 {A}--the--arithmetic--average--volume-of-coal-purchased
22 during-calendar-years-1983-and-1984-from--all--Montana--coal
23 mine-operators,--or

24 {B}--90%--of--the--maximum--tonnage-provided-for-in-any
25 agreement-executed-prior-to-January-1,1985,--for--which--the

1 highest-scheduled-minimum-quantity-of-coal-stipulated-by-the
 2 terms--of--the-agreement-as-they-existed-on-January-17-1985,
 3 has-not-been-purchased-at-any-time-during-the--term--of--the
 4 agreement,--plus--the--arithmetic--average--volume--of--coal
 5 purchased-during-calendar--years--1983--and--1984--from--all
 6 Montana-coal-mine-operators-under-all-other-agreements;

7 (b)--If--the--volume-calculated-in-subsection-(2)(a)(i)
 8 is--less--than--one-third--of--the--volume---calculated---in
 9 subsection--(2)(a)(ii),--the--base--consumption-level-is-the
 10 volume-calculated-in-subsection-(2)(a)(ii);

11 (3)--(a)--Except-as-provided-in-subsection-(3)(b),--"base
 12 production-level"--for-a-coal-mine-operator-applies-only--for
 13 the--term-of-an-agreement-in-effect-as-of-December-31, 1984,
 14 and-means-the-lesser-of:

15 (i)--the-arithmetic-average-volume-of-coal-produced--in
 16 Montana--and--sold-to-a-purchaser-in-calendar-years-1983-and
 17 1984;--or

18 (ii)--the-volume-of-coal-produced-in-Montana-and-sold-to
 19 a-purchaser-in-1986;

20 (b)--If-the-amount-calculated-in-subsection--(3)(a)(ii)
 21 is--less---than--one-third--of--the--amount--calculated--in
 22 subsection-(3)(a)(i),--the--base--production--level--is--the
 23 amount-calculated-in-subsection-(3)(a)(i);

24 (4)--"Broker"--means--any--person--who--resells-Montana
 25 coal;

1 (5)--"Contract-sales-price"--means-either-the--price--of
 2 coal--extracted--and--prepared--for--shipment--f.o.b.--mine,
 3 excluding-that-amount-charged-by-the--seller--to--pay--taxes
 4 paid--on--production,--or--a-price-imputed-by-the-department
 5 under--{section-6}--Contract--sales--price--includes---all
 6 royalties--paid--on--production,--no-matter-how-such-royalties
 7 are-calculated;--However,--with-respect-to-royalties--paid--to
 8 the--government--of-the-United-States,--the-state-of-Montana,
 9 or-a-federally-recognized-Indian-tribe,--the--contract--sales
 10 price--includes-only;

11 (a)--for---quarterly---periods---ending--on--and--after
 12 September-30, 1984,--15--cents--per--ton--plus--75%--of--the
 13 difference--between--15-cents-per-ton-and-the-amount-of-such
 14 federal, state, and--tribal--government--royalties--actually
 15 paid;

16 (b)--for---quarterly---periods---ending--on--and--after
 17 September-30, 1985,--15--cents--per--ton--plus--50%--of--the
 18 difference--between--15-cents-per-ton-and-the-amount-of-such
 19 federal, state, and--tribal--government--royalties--actually
 20 paid;

21 (c)--for---quarterly---periods---ending--on--and--after
 22 September-30, 1986,--15--cents--per--ton--plus--25%--of--the
 23 difference--between--15-cents-per-ton-and-the-amount-of-such
 24 federal, state, and--tribal--government--royalties--actually
 25 paid;--and

{d}--for---quarterly---periods---ending--on--and--after
September-30,-1987,-15-cents-per-ton;

{6}--"Department"--means-the-department-of-revenue;

{7}--"Energy-conversion-process"--includes--any--process
by-which-coal-in-the-solid-state-is-transformed-into-slurry,
gas,-electric-energy,-or-any-other-form-of-energy;

{8}--"Incremental--production"--means--that-quantity-of
coal-produced-annually-by-a-coal-mine-operator-and-sold-to-a
qualified-purchaser-that-exceeds-the-base--production--level
of--the--coal--mine-operator-for-that-purchaser,-but-only-to
the-extent-the-quantity-of--coal--exceeds--that--purchaser's
base-consumption-level-from-all-Montana-producers;

{9}--"Produced"--means-extracted-from-the-earth;

{10}--"Purchaser"--means--a--person--who--purchases--or
contracts-to-purchase-Montana-coal-directly-from-a-coal-mine
operator-or-indirectly-from-a-broker-and-who--utilizes--that
coal--in--any--industrial,-commercial,-or-energy-conversion
process.-A-coal-broker-or-any-other-third-party-intermediary
is-not-a-purchaser-under--the--provisions--of--{sections--1
through-18};

{11}--"Qualified--purchaser"--means--a--purchaser--whose
purchases-of-Montana-coal-in-any-given-year-exceed-his--base
consumption--level;--A-purchaser-of-Montana-coal-who-enters
into-a-coal-agreement-with-another--purchaser--or--a--broker
that--causes--a-reduction-in-the-base-consumption-level-of-a

purchaser-is-not-a-qualified-purchaser;

{12}--"Strip-mining"--is-defined-in-82-4-203-and-includes
"surface-mining";

{13}--"Taxes-paid-on-production"--includes-any--tax--paid
to--the--federal,-state,-or--local--governments--upon--the
quantity-of-coal-produced-as-a-function-of-either-the-volume
or-the-value-of-production-and-does-not-include-any-tax-upon
the-value-of-mining-equipment,-machinery,-or--buildings--and
lands,-any--tax-upon-a-person's-net-income-derived-in-whole
or-in-part-from-the-sale-of-coal,-or-any-license-fee;

{14}--"Ton"--means-2,000-pounds;

{15}--"Underground-mining"--means-a--coal--mining--method
utilizing--shafts--and--tunnels--and--as--further-defined-in
82-4-203;

NEW SECTION.--Section 3.--Quarterly---statement---and
payment--of--tax;--Each-coal-mine-operator-shall-compute-the
privilege-tax-due-on-each-quarter-year's-worth-of-production
on-forms-prescribed-by-the-department.-The--statement--shall
indicate--the-tonnage-produced,-the-average-Btu-value-of-the
production,-the--contract--sales--price--received--for--the
production,-and-such-other-information-as-the-department-may
require;--Each-coal-mine-operator-shall-provide-a-statement
of-the-tons-of-coal-sold-to-each-purchaser-for-the--quarter;
The--completed-form-in-duplicate,-with-the-tax-payment,-must
be-delivered-to--the--department--not--later--than--30--days

1 following--the-close-of-the-quarter--The-form-must-be-signed
 2 by-the-operator-if-the-operator-is-an-individual--or--by--an
 3 officer--of--the--coal--mine--operator--if-the-operator-is-a
 4 business-entity--A-person-operating-more-than-one-coal--mine
 5 in-this-state-may-include-all-of-his-mines-in-one-statement--
 6 The--department-may-grant-a-reasonable-extension-of-time-for
 7 filing-statements-and-payment-of-taxes-due-upon--good--cause
 8 shown-therefor--

9 NEW-SECTION--Section 4--Penalty for delinquent tax--
 10 The-department-shall-add-to-the--amount--of--all--delinquent
 11 privilege--taxes--a-penalty-of-10%-of-the-delinquent-amount
 12 plus-interest-at-the--rate--of--1%-per--month--or--fraction
 13 thereof--computed--on--the-total-amount-of-privilege-tax-and
 14 penalty--Interest--must--be--computed--from--the--date--the
 15 privilege-tax-was-due-to-the-date-of-payment--The-department
 16 shall-mail-to-the-person-required-to-file-a-quarterly-report
 17 and-pay-any-privilege-tax--a-letter-setting-forth-the-amount
 18 of--tax--penalty--and--interest--due--and-the-letter-must
 19 further-contain-a-statement-that-if-payment-is-not--made--a
 20 warrant--for--distrainment-may-be-filed--The-penalty-amount-may
 21 be-waived-by-the-department--if--reasonable--cause--for--the
 22 failure--or--neglect--to--file--the--quarterly--statement-is
 23 provided-to-the-department--

24 NEW-SECTION--Section 5--Annual testing of samples--
 25 The--Montana--state--bureau--of--mines-and-geology-shall-test

1 coal-production-subject-to-{sections-1-through-18}--and--may
 2 make--rules--governing-the-collection-of-test-data--A-person
 3 subject-to-{sections-1--through--18}--shall--submit--to--the
 4 bureau-on-or-before-August-1-each-year-a-sample-of-mine-run,
 5 "as--is" coal-from-each-mine-producing-that-year--Additional
 6 samples-must-be-submitted-at-the-request-of-the-bureau--The
 7 bureau--shall--compute--the--Btu--per--pound--of-each-sample
 8 received-and-forward--this--information--to--the--department
 9 prior-to-September-1-each-year--

10 NEW-SECTION--Section 6--When value of coal may be
 11 imputed--procedure--(1)--The-department-may--or--shall--at
 12 the--request-of-the-taxpayer-impute-a-value-to-the-coal-that
 13 approximates-market-value-f.o.b.--mine-in-a-case-where:

14 {a}--the-operator-of-a-coal-mine-is-using-the--produced
 15 coal-in-an-energy-conversion-or-other-manufacturing-process;

16 {b}--the--operator--of--a-coal-mine-refines-the-coal-by
 17 drying--cleaning--or-other-processing--designed--to--improve
 18 the-quality-of-the-coal;

19 {c}--a--person--sells-coal-under-a-contract-that-is-not
 20 an-arm's-length-agreement--or

21 {d}--a-person-neglects-or-refuses-to-file--a--statement
 22 under--15-23-701--or--a--statement--and--tax--return--under
 23 {sections-1-through-18}--

24 {2}--For-purposes-of-subsection-(1){b}--"market--value
 25 f.o.b.--mine"--means--the--value--of--the-coal-subsequent-to

1 primary--and--secondary--crushing--but--prior---to---drying,
2 cleaning, or other processing;

3 {3}--When--imputing--value, the department may apply the
4 factors used by the federal government under 26--U.S.C.,
5 section--6137--or--that--provision--as--it--may--be--labeled--or
6 amended, in determining gross income from mining or the
7 department may apply any other or additional criteria it
8 considers appropriate. Each subject taxpayer shall upon
9 request by the department furnish a copy of its federal
10 income tax return, with any amendments, filed for the year
11 in which the value of coal is being imputed and copies of
12 the contracts under which it is selling coal at the time.
13 When the department's estimate of market value is contested
14 in any proceeding, the burden of proof is on the contesting
15 party.

16 NEW SECTION. Section 7. Disposal of privilege taxes.
17 {1} Privilege taxes collected under {sections 1 through 12}
18 must be allocated according to the provisions in effect on
19 the date the tax is due.

20 {2} Privilege taxes collected under the provisions of
21 {sections 1 through 12} are allocated as follows:

22 {a}--12%--to--the--highway--reconstruction--trust--fund
23 account in the state special revenue fund;

24 {b}--7.6%--to--the--state--special--revenue--fund--to--the
25 credit of the education trust fund account;

1 {c}--6.65%--to--the--credit--of--the--local--impact--account;

2 {d}--3.8%--to--the--state--special--revenue--fund--for--state
3 equalization aid to public schools of the state;

4 {e}--0.38%--to--the--state--special--revenue--fund--to--the
5 credit of the county land planning account;

6 {f}--0.475%--to--the--credit--of--the--renewable--resource
7 development bond fund;

8 {g}--1.9%--to--a--nonexpendable--trust--fund--for--the--purpose
9 of--parks--acquisition--or--management, protection of works of
10 art in the state capitol, and other cultural and aesthetic
11 projects. Income from this trust fund must be appropriated
12 as follows:

13 {i}--one-third--for--protection--of--works--of--art--in--the
14 state capitol and other cultural and aesthetic projects; and

15 {ii}--two-thirds--for--the--acquisition, development,
16 operation, and maintenance of any sites and areas described
17 in 23--1--102;

18 {h}--0.38%--to--the--state--special--revenue--fund--to--the
19 credit of the state library commission for the purposes of
20 providing basic library services for the residents of all
21 counties through library federations and for payment of the
22 costs of participating in regional and national networking;

23 {i}--0.19%--to--the--state--special--revenue--fund--for
24 conservation districts;

25 {j}--0.475%--to--the--debt--service--fund--type--to--the--credit

1 of-the-water-development-debt-service-fund;
 2 {k}--0.76%--to--the--state-special-revenue-fund-for-the
 3 Montana-Growth-Through-Agriculture-Act;
 4 {l}--to-the-coal-privilege-tax-bond-fund--created--by
 5 {section--17}--50%--of-the-total-privilege-tax-collections.
 6 The-state-treasurer-shall-from-time-to-time-transfer-to--the
 7 general--fund--all-money-in-the-coal-privilege-tax-bond-fund
 8 in-excess-of-the-amount-necessary-to-meet-all-principal--and
 9 interest--payments--on-bonds-payable-from-the-coal-privilege
 10 tax-bond-fund-and-to-satisfy-the-requirements-of-the-general
 11 resolution-pursuant-to-which-the-bonds-were-issued;
 12 {m}--all-other-revenues-from-privilege-taxes--collected
 13 under--the--provisions--of--{sections--1--through-12}--to-the
 14 credit-of-the-general-fund-of-the-state;
 15 NEW SECTION:--Section 8.--Deficiency--assessment--
 16 hearing-----interest;--{1}--When-the-department-determines
 17 that-the-amount-of--tax--due--is--greater--than--the--amount
 18 disclosed--by--a--return,--it--shall--mail--to--the--taxpayer--a
 19 notice-of-the-additional-tax-proposed-to-be-assessed;--Within
 20 30-days-after-mailing-of-the-notice,--the--taxpayer--may--file
 21 with--the--department--a-written-protest-against-the-proposed
 22 additional-tax,--setting-forth-the--grounds--upon--which--the
 23 protest--is--based,--and--may-request-in-his-protest-an-oral
 24 hearing-or-an-opportunity--to--present--additional--evidence
 25 relating--to--his-tax-liability;--if-no-protest-is-filed,--the

1 amount-of-the-additional-tax-proposed-to-be-assessed-becomes
 2 final-upon-the-expiration-of-the-30-day-period;--if-a-protest
 3 is-filed,--the--department--shall--reconsider--the--proposed
 4 assessment--and,--if--the--taxpayer--has-so-requested,--shall
 5 grant-the-taxpayer-an-oral-hearing;--After--consideration--of
 6 the--protest-and-the-evidence-presented-at-any-oral-hearing,
 7 the-department's-action-upon-the-protest-is--final--when--it
 8 mails-notice-of-its-action-to-the-taxpayer;
 9 {2}--When--a--deficiency--is--determined--and--the--tax
 10 becomes-final,--the-department-shall-mail-a-notice-and-demand
 11 for-payment-to-the-taxpayer;--The-tax-is-due-and--payable--at
 12 the--expiration--of--10-days-from-the-date-of-the-notice-and
 13 demand;--Interest-on-any-deficiency-assessment-bears-interest
 14 until-paid-at-the-rate-of-1%--a-month--or--fraction--thereof,
 15 computed-from-the-original-due-date-of-the-return;
 16 NEW SECTION:--Section 9.--Credit--for--overpayment--
 17 interest-on-overpayment;--{1}--If-the--department--determines
 18 that--the--amount--of--tax,--penalty,--or--interest--due--for--any
 19 year-is-less--than--the--amount--paid,--the--amount--of--the
 20 overpayment--must--be--credited--against--any-tax,--penalty,--or
 21 interest--then--due--from--the--taxpayer--and--the--balance--refunded
 22 to--the--taxpayer--or--its--successor--through--reorganization,
 23 merger,--or--consolidation--or--to--its--shareholders--upon
 24 dissolution;
 25 {2}--Except-as-provided--in--subsection--{3},--interest

1 must--be--allowed--on--overpayments--at--the--same--rate--as--is
2 charged--on--deficiency--assessments--provided--in--{section--8}
3 due--from--the--due--date--of--the--return--or--from--the--date--of
4 overpayment--{whichever--date--is--later}--to--the--date--the
5 department---approves---refunding---or---crediting---of--the
6 overpayment;

7 {3}--{a}--Interest--may--not--accrue--during--any--period--the
8 processing--of--a--claim--for--refund--is--delayed--more--than--30
9 days--by--reason--of--failure--of--the--taxpayer--to--furnish
10 information--requested--by--the--department--for--the--purpose--of
11 verifying--the--amount--of--the--overpayment;

12 {b}--No--interest--may--be--allowed;

13 {i}--if--the--overpayment--is--refunded--within--6--months
14 from--the--date--the--return--is--due--or--from--the--date--the--return
15 is--filed,--whichever--is--later,--or

16 {ii}--if--the--amount--of--interest--is--less--than--\$1;

17 {c}--A--payment--not--made--incident--to--a--bona--fide--and
18 orderly---discharge--of--an--actual--tax--liability--or--one
19 reasonably--assumed--to--be--imposed--by--this--law--may--not--be
20 considered--an--overpayment--with--respect--to--which--interest--is
21 allowable;

22 NEW-SECTION--Section 10--Statute of limitations--{1}
23 Except--as--otherwise--provided--in--this--section,--no--deficiency
24 may--be--assessed--or--collected--with--respect--to--the--year--for
25 which--a--return--is--filed--unless--the--notice--of--additional--tax

1 proposed--to--be--assessed--is--mailed--within--5--years--from--the
2 date--the--return--was--filed;--For--the--purposes--of--this--section,
3 a--return--filed--before--the--last--day--prescribed--for--filing--is
4 considered--as--filed--on--the--last--day;--If--the--taxpayer,--before
5 the--expiration--of--the--period--prescribed--for--assessment--of
6 the--tax,--consents--in--writing--to--an--assessment--after--that
7 time,--the--tax--may--be--assessed--at--any--time--prior--to--the
8 expiration--of--the--period--agreed--upon;

9 {2}--No--refund--or--credit--may--be--allowed--or--paid--with
10 respect--to--the--year--for--which--a--return--is--filed--after--5
11 years--from--the--last--day--prescribed--for--filing--the--return--or
12 after--1--year--from--the--date--of--the--overpayment,--whichever
13 period--expires--later,--unless--before--the--expiration--of--the
14 period--the--taxpayer--files--a--claim--therefor--or--the--department
15 has--determined--the--existence--of--the--overpayment--and--has
16 approved--the--refund--or--credit--thereof;--If--the--taxpayer--has
17 agreed--in--writing--under--the--provisions--of--subsection--{1}--to
18 extend--the--time--within--which--the--department--may--propose--an
19 additional--assessment,--the--period--within--which--a--claim--for
20 refund--or--credit--may--be--filed--or--a--credit--or--refund--allowed
21 if--no--claim--is--filed--is--automatically--extended;

22 {3}--If--a--return--is--required--to--be--filed--and--the
23 taxpayer--fails--to--file--the--return,--the--tax--may--be--assessed
24 or--an--action--to--collect--the--tax--may--be--brought--at--any--time;
25 If--a--return--is--required--to--be--filed--and--the--taxpayer--files--a

1 fraudulent--return,--the--5-year--period--provided--for---in
2 subsection--{1}--does-not-begin-until-discovery-of-the-fraud
3 by-the-department;

4 NEW-SECTION--**Section 11**--Penalties--for--neglect---or
5 false--statement,---A-person-who-fails,--neglects,--or-refuses
6 to-file-any-statement-required-under-{sections-1-through-18}
7 or-who-makes-a-false--statement--commits--a--misdemeanor,--A
8 person--convicted--under--this-section-shall-be-fined-not-to
9 exceed-\$1,000-or-be-imprisoned-in-the-county--jail--for--any
10 term-not-to-exceed-6-months,--or-both;

11 NEW-SECTION--**Section 12**--Rulemaking--authority,---The
12 department-may-adopt-rules-necessary--for--the--taxation--of
13 property-under-{sections-1-through-18},--

14 NEW-SECTION--**Section 13**--New-----coal-----production
15 incentive-tax-credit-allowed-----application-limited,--{1}--A
16 coal--mine--operator--is--entitled--to-a-new-coal-production
17 incentive-tax-credit-against-the-tax-imposed-under--{section
18 1}-of;

19 {a}--40%-for-incremental-production-sold-after-June-30,
20 1988,--and-before-July-1,--1990,--and

21 {b}--25%-for-incremental-production-sold-after-June-30,
22 1990,--and-before-July-1,--1991;

23 {2}--A-coal--mine--operator--is--entitled--to-a-new-coal
24 production-incentive-tax-credit--against--the--tax--imposed
25 under--{section-1}-on-incremental-production-for-the-entire

1 term-of-an-agreement,--except-as-provided-in-subsection--{3},
2 and--is-entitled-to-adjustment-of-the-base-consumption-level
3 and-the-base-production-level,--as-defined-in-{section-2},--if
4 the-incremental--production--resulted--from--coal--purchases
5 under;

6 {a}--an-existing--agreement--that--was--extended-after
7 December-31,--1984,--and-before-July-1,--1991,--for-at--least--a
8 5-year-period,--or

9 {b}--a-new--agreement--that--was--executed--after-December
10 31,--1984,--and-before-July-1,--1991;

11 {3}--No-credit-may-be-claimed-for-coal--produced--prior
12 to-January-1,--1985;

13 NEW-SECTION--**Section 14**--Calculation--and-application
14 of-credit,--{1}-The-amount-of-new-coal-production--incentive
15 tax--credit--that-a-coal-mine-operator-may-claim-against-the
16 tax-imposed-in-{section-1}-is-calculated-by;

17 {a}--determining-the-incremental-production-for-each-of
18 his-qualified-purchasers-that-was-produced-during-a-calendar
19 year;

20 {b}--distributing-the-incremental-production-among--the
21 quarters--in-the-calendar-year-in-the-same-proportion-as-the
22 total-volume-of-coal-sold-each-quarter--to--each--respective
23 purchaser--and--summing--the--amounts--for-all-purchasers-to
24 determine-the-coal-mine--operator's--incremental--production
25 for-each-quarter;

1 (c)--determining--the--arithmetic-average-privilege-tax
2 per-ton-calculated-prior-to-application--of--the--credit--on
3 coal--sold--to--each-qualified-purchaser--each-quarter-during
4 the-calendar-year;

5 (d)--multiplying--the--incremental--production--for---a
6 quarter-for-a-purchaser-by-the-average-privilege-tax-per-ton
7 for---that-purchaser--and--multiplying--the--total--by--the
8 appropriate-percentage-as-provided-in-{section-13}-for--each
9 quarter; and

10 (e)--totaling---the---amount---so--calculated--for--all
11 qualified-purchasers-for-all-four-quarters-of--the--calendar
12 year;

13 (2)--When--filing--the--quarterly-statement-required-in
14 {section-3}-a-coal-mine-operator-may-claim-against-the-coal
15 privilege-tax-calculated-for-that-quarter-an-amount-equal-to
16 25%--of--the--new-coal-production-incentive-tax-credit--allowed
17 on--incremental-production-that-occurred-during-the-previous
18 calendar-year;

19 (3)--If--in-any-calendar-year-a-purchaser--exceeds--his
20 base--consumption--level-and-he-has-purchased-from-more-than
21 one-Montana-coal-mine-operator-during-the-year;--the--credit
22 on--the--incremental--production--must--be-divided-among-the
23 operators-on-a-pro-rata-basis;--To-determine--each--coal--mine
24 operator's--pro--rata-share-of-the-tax-credit; each-operator
25 shall-divide-his-incremental-production-by-the--sum--of--all

1 coal--mine--operators'-incremental--production--for--that
2 purchaser-and-multiply-the--quotient--by--the--purchases--in
3 excess-of-the-base-consumption-level-for-that-purchaser;

4 (4)--Neither--a--coal--mine-operator-nor-a-purchaser-is
5 entitled-to-a-direct--payment--for--the--credit--allowed--in
6 {section-13};--A-credit-terminates-if-not-taken-during-the
7 year-following-the-year-in-which-the-incremental--production
8 occurred;

9 (5)--Each-coal-mine-operator-shall-reduce-the-delivered
10 price--of-coal-sold-to-each-qualified-purchaser-by-an-amount
11 equal-to-the-credit-received-on-incremental-production--sold
12 to-that-purchaser;

13 NEW SECTION.--Section 16.--Reporting--requirements--for
14 credit---duty-of-department;--(1)--Every-Montana--coal--mine
15 operator-shall-provide-to-the-department;

16 (a)--on--or--before--September-30, 1989, a-list-showing
17 the-amount-of-coal-produced-and-sold-in-calendar-years--1983
18 and--1984--to--every--purchaser;--including--purchasers--who
19 obtained-coal-from-the-coal-mine-operator-through-a--broker;
20 and

21 (b)--with--the-quarterly-statement-required-by-{section
22 3}-a-list-of-the-number-of-tons-produced-and-sold-to--every
23 purchaser---during---the---quarter--and--the--privilege-tax
24 calculated-prior-to-the-application-of-the-credit--on--these
25 tons;

1 {2}--To--be-eligible-for-the-tax-credit-provided-for-in
2 {section-13}, a coal mine operator shall furnish to the
3 department:

4 {a}--on--or--before--September--30,--1989--copies-of-all
5 existing coal sales agreements;

6 {b}--with-the-quarterly-statement-required-by--{section
7 3}, a copy of any new coal sales agreements or extensions of
8 existing agreements executed during the quarter;

9 {c}--on--or--before--January--31--of--each--year:

10 {i}--a--list--of--incremental--production--for--all--qualified
11 purchasers during the previous calendar year;

12 {ii}--a--written--statement--from--each--qualified--purchaser
13 verifying the volume of coal purchased in that year from all
14 Montana coal mine operators; and

15 {iii}--the--necessary--information--on--incremental
16 production--purchased--through--a--broker--to--verify--that--the
17 incremental production did not cause a reduction in the base
18 consumption level of any other purchaser of Montana coal;
19 and

20 {d}--any--other--data, reports, evidence, or production
21 data that may be necessary for the department to determine
22 whether a purchaser is a qualified purchaser and the base
23 consumption level for each purchaser;

24 {3}--By--January--1,--1990--the--department--shall--prepare
25 and publish for informational purposes only an unaudited

1 compilation of the base production level for each coal mine
2 operator and a compilation of the base consumption level for
3 each purchaser;

4 {4}--Any--coal--mine--operator--or--purchaser--may, for the
5 purpose of determining the eligibility of coal production
6 for the new production incentive tax credit, file with the
7 department a petition for a declaratory ruling as provided
8 in 2-4-501. The department shall issue a ruling on the
9 petition within 90 days of the date the petition was filed
10 with the department.

11 NEW SECTION. **Section 16.** Returns and taxpayer
12 information open to public inspection and certain exceptions.
13 {1} All information filed with the department in accordance
14 with {section 15} is public record and open to public
15 inspection, except the information required under {section
16 15(1)(b)} and the coal sales agreements specified in
17 {section 15(2)(a) and (2)(b)}.

18 {2} Except during proceedings before the state tax
19 appeal board pursuant to 15-2-201, the information required
20 under {section 15(1)(b)} and the coal sales agreements
21 specified in {section 15(2)(a) and (2)(b)} are open to
22 inspection only upon the order of the governor, under rules
23 to be prescribed by the department or upon order of a court
24 of competent jurisdiction.

25 NEW SECTION. **Section 17.** Creation of coal privilege

1 tax-bond-fund----pledge-of-tax-----authorization--of--coal
 2 privilege-tax-bonds:--(1)--There-is-a-coal-privilege-tax-bond
 3 fund--in--which--must--be--deposited-the-amount-set-forth-in
 4 {section-7(2)(1)};

5 (2)--The-money-deposited-in-the-coal-privilege-tax-bond
 6 fund-is-pledged-to-and-secures-the-payment-of--principal--of
 7 and--interest--on--all--state--of-Montana-coal-severance-tax
 8 bonds-issued-pursuant-to-Title-17,chapter-5,part--7,--and
 9 coal-privilege-tax-bonds-authorized-by-this-section;

10 (3)--The--board--of--examiners,--upon--approval--of--the
 11 legislature-as-provided-in-Title-17,chapter-5,part-7,--may
 12 issue-and-sell-coal-privilege-tax-bonds-for-the-purposes-and
 13 subject-to-the-terms-and-conditions-for-the-issuance-of-coal
 14 severance--tax--bonds-set-forth-in-Title-17,chapter-5,part
 15 7;

16 (4)--All-bonds-issued-pursuant-to-Title-17,chapter--5,
 17 part---7,--after--{the--effective--date--of--this--section},
 18 including-those-bonds-authorized-to-be-issued-by-House--Bill
 19 7787--Laws--of--1989,--are--called--"state--of--Montana-coal
 20 privilege-tax-bonds" and-the-money-in-the-coal-privilege
 21 tax--bond--fund--is--pledged--to--pay--the--principal-of-and
 22 interest-on-the-bonds;

23 (5)--For-the-purposes-of-Title-17,chapter-5,part--7,
 24 deposits--into--the--coal--privilege--tax--bond-fund-must-be
 25 treated-as-deposits-into-the-coal-severance-tax--bond--fund;

1 ~~NEW-SECTION.~~ **Section 18.**--Continued-tax-deposit.--The
 2 legislature-shall--provide--for--the--continued--assessment,
 3 levy,--and--collection--of--the--privilege--tax--and-for-the
 4 deposit-of-that-revenue-into-the--coal--privilege--tax--bond
 5 fund-that, together-with-other-revenue, assets, and-money-as
 6 may--be--deposited-to-one-or-more-special-bond-funds-pledged
 7 for-the-benefit-of-the-coal-severance-tax-bonds-or-the--coal
 8 privilege-tax-bonds, will-be-sufficient-to-produce-an-amount
 9 that--is-necessary-to-pay, when-due, the-annual-debt-service
 10 charges-on-all--outstanding--bonds--payable--from--the--coal
 11 privilege-tax-bond-fund;

12 **Section 18.**--Section-7-1-2111, MCA, is-amended-to-read:
 13 *7-1-2111--Classification-of--counties:--(1)--For-the
 14 purpose-of-regulating-the-compensation-and-salaries--of--all
 15 county--officers, not-otherwise-provided-for, and-for-fixing
 16 the-penalties-of-officers'-bonds, the--several--counties--of
 17 this--state-shall-be-classified-according-to-that-percentage
 18 of-the-true-and-full-valuation-of-the-property-therein--upon
 19 which--the--tax-levy-is-made, except-for-vehicles-subject-to
 20 taxation-under-61-3-504(2), as-follows:

21 (a)--first-class--all-counties-having--such-a--taxable
 22 valuation-of-\$50-million-or-over;

23 (b)--second-class--all-counties-having-such-a-taxable
 24 valuation-of--more--than--\$30--million--and--less--than--\$50
 25 million;

1 (c)--third--class--all--counties--having--such--a--taxable
 2 valuation--of--more--than--\$20--million--and--less--than--\$30
 3 million;
 4 (d)--fourth--class--all--counties--having--such--a--taxable
 5 valuation--of--more--than--\$15--million--and--less--than--\$20
 6 million;
 7 (e)--fifth--class--all--counties--having--such--a--taxable
 8 valuation--of--more--than--\$10--million--and--less--than--\$15
 9 million;
 10 (f)--sixth--class--all--counties--having--such--a--taxable
 11 valuation--of--more--than--\$5--million--and--less--than--\$10--million;
 12 (g)--seventh--class--all--counties--having--such--a--taxable
 13 valuation--of--less--than--\$5--million;
 14 (2)--As--used--in--this--section, taxable valuation means
 15 the taxable value of taxable property in the county as of
 16 the time of determination plus:
 17 (a)--that portion of the taxable value of the county on
 18 December--31--1981, attributable to automobiles and trucks
 19 having a rated capacity of three quarters of a ton or less;
 20 (b)--that portion of the taxable value of the county on
 21 December--31--1989, attributable to automobiles and trucks
 22 having a rated capacity of more than three quarters of a ton
 23 but less than or equal to 1 ton;
 24 (c)--the amount of interim production and new
 25 production taxes levied, as provided in 15-23-607, divided

1 by the appropriate tax rates described in 15-23-607(2)(a) or
 2 (2)(b) and multiplied by 60% and
 3 (d)--the amount of value represented by new production
 4 exempted from tax as provided in 15-23-612, and
 5 (e)--6% of the total taxable value of the county on
 6 December 31, 1990." Section 20.
 7 Section 7-3-1321, MCA, is amended to read:
 8 "7-3-1321. Authorization to incur indebtedness--
 9 limitation. (1) The consolidated municipality may borrow
 10 money or issue bonds for any municipal purpose to the extent
 11 and in the manner provided by the constitution and laws of
 12 Montana for the borrowing of money or issuing of bonds by
 13 counties and cities and towns.
 14 (2) The municipality may not become indebted in any
 15 manner or for any purpose to an amount, including existing
 16 indebtedness, in the aggregate exceeding 28% 29.8% of the
 17 taxable value of the taxable property therein, as
 18 ascertained by the last assessment for state and county
 19 taxes prior to incurring such indebtedness. All warrants,
 20 bonds, or obligations in excess of such amount given by or
 21 on behalf of the municipality shall be void."
 22 Section 21. Section 7-6-2211, MCA, is amended to read:
 23 "7-6-2211. Authorization to conduct county business on
 24 a cash basis. (1) In case the total indebtedness of a
 25 county, lawful when incurred, exceeds the limit of 23% 24.5%

established in 7-7-2001 by reason of great diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the reasonable and necessary current expenses of the county out of the cash in the county treasury derived from its current revenue and under such restrictions and regulations as may be imposed by the board of county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

(2) Nothing in this section restricts the right of the board to make the necessary tax levies for interest and sinking fund purposes, and nothing in this section affects the right of any creditor of the county to pursue any remedy now given him by law to obtain payment of his claim."

Section 22. Section 7-6-4121, MCA, is amended to read:

"7-6-4121. Authorization to conduct municipal business on a cash basis. (1) In case the total indebtedness of a city or town has reached 17 1/2 % of the total taxable value of the property of the city or town subject to taxation, as ascertained by the last assessment for state and county taxes, the city or town may conduct its affairs and business on a cash basis as provided by subsection (2). (2) (a) Whenever a city or town is conducting its business affairs on a cash basis, the reasonable and necessary current expenses of the city or town may be paid out of the cash in the city or town treasury and derived

from its current revenues, under such restrictions and regulations as the city or town council may by ordinance prescribe.

(b) In the event that payment is made in advance, the city or town may require a cash deposit as collateral security and indemnity, equal in amount to such payment, and may hold the same as a special deposit with the city treasurer or town clerk, in package form, as a pledge for the fulfillment and performance of the contract or obligation for which the advance is made.

(c) Before the payment of the current expenses mentioned above, the city or town council shall first set apart sufficient money to pay the interest upon its legal, valid, and outstanding bonded indebtedness and any sinking funds therein provided for and shall be authorized to pay all valid claims against funds raised by tax especially authorized by law for the purpose of paying such claims."

Section 23. Section 7-6-4254, MCA, is amended to read:

"7-6-4254. Limitation on amount of emergency budgets and appropriations. (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed 38 3/4 % of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

{2}--The term "taxable property" as used herein, means the percentage of the value at which such property is assessed and which percentage is used for the purposes of computing taxes and does not mean the assessed value of such property as the same appears on the assessment roll."

Section 24.--Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, no city-county consolidated local government may issue bonds for any purpose which, with all outstanding indebtedness, may exceed 39% 41.5% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes.

{2}--The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 25.--Section 7-7-108, MCA, is amended to read:

"7-7-108. Authorization for additional indebtedness for water or sewer systems. (1) For the purpose of constructing a sewer system or procuring a water supply or constructing or acquiring a water system for a city-county consolidated government which shall own and control such water supply and water system and devote the revenues therefrom to the payment of the debt, a city-county

consolidated government may incur an additional indebtedness by borrowing money or issuing bonds.

{2}--The additional indebtedness which may be incurred by borrowing money or issuing bonds for the construction of a sewer system or for the procurement of a water supply or for both such purposes may not in the aggregate exceed 10% over and above the 39% 41.5% referred to in 7-7-107 of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 26.--Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% 24.5% of the total of the taxable value of the property therein subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

{2}--No county may incur indebtedness or liability for any single purpose to an amount exceeding \$500,000 without

1 the approval of a majority of the electors thereof voting at
2 an election to be provided by law, except as provided in
3 7-21-3413 and 7-21-3414.

4 (3) Nothing in this section shall apply to the
5 acquisition of conservation easements as set forth in Title
6 76, chapter 6."

7 **Section 27.** Section 7-7-2203, MCA, is amended to read:

8 "7-7-2203. Limitation on amount of bonded
9 indebtedness. (1) Except as provided in subsections (2)
10 through (4), no county may issue general obligation bonds
11 for any purpose which, with all outstanding bonds and
12 warrants except county high school bonds and emergency
13 bonds, will exceed 11.25% 12% of the total of the taxable
14 value of the property therein, plus the amount of interim
15 production and new production taxes levied divided by the
16 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
17 and multiplied by 60%, plus the amount of value represented
18 by new production exempted from tax as provided in
19 15-23-612, to be ascertained by the last assessment for
20 state and county taxes prior to the proposed issuance of
21 bonds.

22 (2) In addition to the bonds allowed by subsection
23 (1), a county may issue bonds which, with all outstanding
24 bonds and warrants, will not exceed 27.75% 29.5% of the
25 total of the taxable value of the property in the county

1 subject to taxation, plus the amount of interim production
2 and new production taxes levied divided by the appropriate
3 tax rates described in 15-23-607(2)(a) or (2)(b) and
4 multiplied by 60%, plus the amount of value represented by
5 new production exempted from tax as provided in 15-23-612,
6 when necessary to do so, for the purpose of acquiring land
7 for a site for county high school buildings and for erecting
8 or acquiring buildings thereon and furnishing and equipping
9 the same for county high school purposes.

10 (3) In addition to the bonds allowed by subsections
11 (1) and (2), a county may issue bonds for the construction
12 or improvement of a jail which will not exceed 12.5% 13.3%
13 of the taxable value of the property in the county subject
14 to taxation.

15 (4) The limitation in subsection (1) does not apply to
16 refunding bonds issued for the purpose of paying or retiring
17 county bonds lawfully issued prior to January 1, 1932, or to
18 bonds issued for the repayment of tax protests lost by the
19 county."

20 **Section 28.** Section 7-7-4201, MCA, is amended to read:

21 "7-7-4201. Limitation on amount of bonded
22 indebtedness. (1) Except as otherwise provided, no city or
23 town may issue bonds or incur other indebtedness for any
24 purpose in an amount which with all outstanding and unpaid
25 indebtedness will exceed 28% 29.8% of the taxable value of

the--property--therein--subject--to--taxation,--to--be--ascertained
by--the--last--assessment--for--state--and--county--taxes.

{2}--The--issuing--of--bonds--for--the--purpose--of--funding--or
refunding--outstanding--warrants--or--bonds--is--not--the--incurring
of--a--new--or--additional--indebtedness--but--is--merely--the
changing--of--the--evidence--of--outstanding--indebtedness.

{3}--The--limitation--in--subsection--(1)--does--not--apply--to
bonds--issued--for--the--repayment--of--tax--protests--lost--by--the
city--or--town."

Section 29.--Section--7-7-4202,--MCA,--is--amended--to--read:

"7-7-4202.--Special--provisions--relating--to--water--and
sewer---systems:---(1)--Notwithstanding--the--provisions--of
7-7-4201,--for--the--purpose--of--constructing--a--sewer--system,
procuring--a--water--supply,--or--constructing--or--acquiring--a
water--system--for--a--city--or--town--which--owns--and--controls--the
water--supply--and--water--system--and--devotes--the--revenues
therefrom--to--the--payment--of--the--debt,--a--city--or--town--may
incur--an--additional--indebtedness--by--borrowing--money--or
issuing--bonds.

{2}--The--additional--total--indebtedness--that--may--be
incurred--by--borrowing--money--or--issuing--bonds--for--the
construction--of--a--sewer--system,--for--the--procurement--of--a
water--supply,--or--for--both--such--purposes,--including--all
indebtedness--theretofore--contracted--which--is--unpaid--or
outstanding,--may--not--in--the--aggregate--exceed--55%--over--and

above--the--28% 29.8%,--referred--to--in--7-7-4201,--of--the--taxable
value--of--the--property--therein--subject--to--taxation--as
ascertained--by--the--last--assessment--for--state--and--county
taxes."

Section 30.--Section--7-13-4103,--MCA,--is--amended--to
read:

"7-13-4103.--Limitation--on--indebtedness--for--acquisition
of--natural--gas--system:---The--total--amount--of--indebtedness
authorized--to--be--contracted--in--any--form,--including--the
then-existing--indebtedness,--must--not--at--any--time--exceed--17%
18.1% of--the--total--taxable--value--of--the--property--of--the--city
or--town--subject--to--taxation--as--ascertained--by--the--last
assessment--for--state--and--county--taxes."

Section 31.--Section--7-14-236,--MCA,--is--amended--to--read:

"7-14-236.--Limitation--on--bonded--indebtedness:---The
amount--of--bonds--issued--to--provide--funds--for--the--district--and
outstanding--at--any--time--shall--not--exceed--28% 29.8% of--the
taxable--value--of--taxable--property--therein--as--ascertained--by
the--last--assessment--for--state--and--county--taxes--previous--to
the--issuance--of--such--bonds."

Section 32.--Section--7-14-2524,--MCA,--is--amended--to
read:

"7-14-2524.--Limitation--on--amount--of--bonds--issued---
excess--void:---(1)--Except--as--otherwise--provided--hereafter--and
in--7-7-2203--and--7-7-2204,--no--county--shall--issue--bonds--which,

with--all--outstanding-bonds-and-warrants-except-county-high school-bonds-and-emergency-bonds,--will-exceed-11.25% 12% of the-total-of-the-taxable-value-of-the-property-therein,--plus the--amount--of--interim-production-and-new-production-taxes levied-divided-by-the-appropriate--tax--rates--described--in 15-23-607(2)(a)--or--(2)(b)--and-multiplied-by-60%,--plus-the amount-of-value-represented-by-new-production-exempted--from tax--as-provided-in-15-23-612.--The-taxable-property-and-the amount-of-interim-production-and-new-production-taxes-levied shall-be-ascertained-by-the-last-assessment--for--state--and county-taxes-prior-to-the-issuance-of-such-bonds.

(2)--A--county--may--issue--bonds--which,--with--all outstanding-bonds-and-warrants--except--county--high--school bonds,--will-exceed-11.25% 12% but-will-not-exceed-22.5% 24% of-the-total-of-the-taxable-value-of-such-property,--plus-the amount-of-interim-production-and-new-production-taxes-levied divided--by--the--appropriate--tax--rates--described--in 15-23-607(2)(a)--or--(2)(b)--and-multiplied-by-60%,--plus-the amount-of-value-represented-by-new-production-exempted--from tax-as-provided-in-15-23-612,--when-necessary-for-the-purpose of--replacing,--rebuilding,--or--repairing-county-buildings, bridges,--or-highways-which-have-been-destroyed-or-damaged-by an-act-of-God,--disaster,--catastrophe,--or-accident.

(3)--The-value--of--the--bonds--issued--and--all--other outstanding--indebtedness--of-the-county,--except-county-high

school-bonds,--shall-not-exceed-22.5% 24% of-the-total-of-the taxable-value-of-the-property-within-the--county,--plus--the amount-of-interim-production-and-new-production-taxes-levied divided--by--the--appropriate--tax--rates--described--in 15-23-607(2)(a)--or--(2)(b)--and-multiplied-by--60%,--plus--the amount--of--value--represented-by-new-production-exempted-from tax-as-provided-in-15-23-612,--as--ascertained--by--the--last preceding-general-assessment."

Section 33.--Section--7-14-2525,--MCA,--is--amended--to read:

"7-14-2525.--Refunding-agreements-and--refunding--bonds authorized.--(1) Whenever-the-total-indebtedness-of-a-county exceeds--22.5% 24% of-the-total-of-the-taxable-value-of-the property-therein,--plus-the-amount-of-interim-production--and new--production--taxes-levied-divided-by-the-appropriate-tax rates-described-in-15-23-607(2)(a)--or--(2)(b)--and--multiplied by--60%,--plus--the--amount--of--value--represented--by--new production-exempted-from-tax-as-provided-in--15-23-612,--and the--board--determines-that-the-county-is-unable-to-pay-such indebtedness-in-full,--the-board-may:

(a)--negotiate-with-the-bondholders--for--an--agreement whereby--the--bondholders-agree-to-accept-less-than-the-full amount-of-the-bonds-and-the-accrued-unpaid-interest--thereon in-satisfaction-thereof,

(b)--enter-into-such-agreement;

1 (c)--issue--refunding--bonds--for--the--amount--agreed--upon--
 2 (2)--These--bonds--may--be--issued--in--more--than--one--series,
 3 and--each--series--may--be--either--amortization--or--serial--bonds--
 4 (3)--The--plan--agreed--upon--between--the--board--and--the
 5 bondholders--shall--be--embodied--in--full--in--the--resolution
 6 providing--for--the--issue--of--the--bonds."

7 **Section 34.**--Section--7-14-4402,--MCA,--is--amended--to
 8 read:

9 "7-14-4402. Limit on indebtedness to provide bus
 10 service. The total amount of indebtedness authorized under
 11 7-14-4401(1) to be contracted in any form, including the
 12 then-existing indebtedness, may not at any time exceed 28%
 13 29.8% of the total taxable value of the property of the city
 14 or town subject to taxation as ascertained by the last
 15 assessment for state and county taxes. No money may be
 16 borrowed or bonds issued for the purposes specified in
 17 7-14-4401(1) until the proposition has been submitted to the
 18 vote of the taxpayers of the city or town and the majority
 19 vote cast in its favor."

20 **Section 35.**--Section--7-16-2327,--MCA,--is--amended--to
 21 read:

22 "7-16-2327. Indebtedness for park purposes. (1)
 23 Subject to the provisions of subsection (2), a county park
 24 board, in addition to powers and duties now given under law,
 25 shall have the power and duty to contract an indebtedness in

1 behalf of a county, upon the credit thereof, for the
 2 purposes of 7-16-2321(1) and (2).

3 (2) (a) The total amount of indebtedness authorized to
 4 be contracted in any form, including the then-existing
 5 indebtedness, must not at any time exceed 13% 13.8% of the
 6 total of the taxable value of the taxable property in the
 7 county, plus the amount of interim production and new
 8 production taxes levied divided by the appropriate tax rates
 9 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 10 60%, plus the amount of value represented by new production
 11 exempted from tax as provided in 15-23-612, ascertained by
 12 the last assessment for state and county taxes previous to
 13 the incurring of such indebtedness.

14 (b) No money may be borrowed on bonds issued for the
 15 purchase of lands and improving same for any such purpose
 16 until the proposition has been submitted to the vote of
 17 those qualified under the provisions of the state
 18 constitution to vote at such election in the county affected
 19 thereby and a majority vote is cast in favor thereof."

20 **Section 36.**--Section--7-16-4104,--MCA,--is--amended--to
 21 read:

22 "7-16-4104. Authorization for municipal indebtedness
 23 for various cultural, social, and recreational purposes.
 24 (1) A city or town council or commission may contract an
 25 indebtedness on behalf of the city or town, upon the credit

thereof, by borrowing money or issuing bonds:

(a) for the purpose of purchasing and improving lands for public parks and grounds;

(b) for procuring by purchase, construction, or otherwise swimming pools, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or combination thereof; and

(c) for furnishing and equipping the same.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, may not at any time exceed ~~16.5%~~ 17.6% of the taxable value of the taxable property of the city or town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No money may be borrowed on bonds issued for the purchase of lands and improving the same for any such purpose until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor thereof."

Section 37. Section 7-31-106, MCA, is amended to read:

"7-31-106. Authorization for county to issue bonds. Election required. (1) If the petition is presented to the board of county commissioners, it shall be the duty of the board, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other

necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) to ascertain, within 30 days after submission of the petition, the existing indebtedness of the county in the aggregate; and

(b) to submit, within 60 days after ascertaining the same, to the electors of such county the proposition to approve or disapprove the contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~22.5%~~ 24% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained by the last assessment for state and county taxes previous to the issuance of said bonds and incurring of said indebtedness."

Section 38. Section 7-31-107, MCA, is amended to read:

"7-31-107. Authorization for municipality to issue bonds. Election required. (1) If said petition is presented to the council of any incorporated city or town, the council, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) shall ascertain, within 30 days after submission of the petition, the aggregate indebtedness of such city or

town; and

(b) shall submit, within 60 days after ascertaining the same, to the electors of such city or town the proposition to approve or disapprove said contract and the issuance of bonds necessary to carry out the same;

(2) The amount of the bonds authorized by this section may not exceed 16.5% 17.6% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained in the manner provided in this part."

Section 38. Section 7-34-2131, MCA, is amended to read:

"7-34-2131. Hospital district bonds authorized. (1) A hospital district may borrow money by the issuance of its bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital;

(2) The amount of bonds issued for such purpose and outstanding at any time may not exceed 22.5% 24% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds;

(3) Such bonds shall be authorized, sold, and issued and provisions made for their payment in the manner and

subject to the conditions and limitations prescribed for bonds of school districts by Title 20, chapter 9, part 4;

(4) Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a nonprofit corporation as defined in 35-2-102 or used for the production of income, except that property

1 described in subsection (ii).

2 (ii) The following types of property are not
3 commercial:

4 (A) agricultural lands;

5 (B) timberlands;

6 (C) single-family residences and ancillary
7 improvements and improvements necessary to the function of a
8 bona fide farm, ranch, or stock operation;

9 (D) mobile homes used exclusively as a residence
10 except when held by a distributor or dealer of trailers or
11 mobile homes as his stock in trade;

12 (E) all property described in 15-6-135; and

13 (F) all property described in 15-6-136; and

14 ~~(G) all property described in 15-6-146.~~

15 (e) The term "comparable property" means property that
16 has similar use, function, and utility; that is influenced
17 by the same set of economic trends and physical,
18 governmental, and social factors; and that has the potential
19 of a similar highest and best use.

20 (f) The term "credit" means solvent debts, secured or
21 unsecured, owing to a person.

22 (g) The term "improvements" includes all buildings,
23 structures, fences, and improvements situated upon, erected
24 upon, or affixed to land. When the department of revenue or
25 its agent determines that the permanency of location of a

1 mobile home or housetrailer has been established, the mobile
2 home or housetrailer is presumed to be an improvement to
3 real property. A mobile home or housetrailer may be
4 determined to be permanently located only when it is
5 attached to a foundation which cannot feasibly be relocated
6 and only when the wheels are removed.

7 (h) The term "leasehold improvements" means
8 improvements to mobile homes and mobile homes located on
9 land owned by another person. This property is assessed
10 under the appropriate classification and the taxes are due
11 and payable in two payments as provided in 15-24-202.
12 Delinquent taxes on such leasehold improvements are a lien
13 only on such leasehold improvements.

14 (i) The term "livestock" means cattle, sheep, swine,
15 goats, horses, mules, and asses.

16 (j) The term "mobile home" means forms of housing
17 known as "trailers", "housetrailer", or "trailer coaches"
18 exceeding 8 feet in width or 45 feet in length, designed to
19 be moved from one place to another by an independent power
20 connected to them, or any "trailer", "housetrailer", or
21 "trailer coach" up to 8 feet in width or 45 feet in length
22 used as a principal residence.

23 (k) The term "personal property" includes everything
24 that is the subject of ownership but that is not included
25 within the meaning of the terms "real estate" and

1 "improvements".

2 (l) The term "poultry" includes all chickens, turkeys,
3 geese, ducks, and other birds raised in domestication to
4 produce food or feathers.

5 (m) The term "property" includes moneys, credits,
6 bonds, stocks, franchises, and all other matters and things,
7 real, personal, and mixed, capable of private ownership.
8 This definition must not be construed to authorize the
9 taxation of the stocks of any company or corporation when
10 the property of such company or corporation represented by
11 the stocks is within the state and has been taxed.

12 (n) The term "real estate" includes:

13 (i) the possession of, claim to, ownership of, or
14 right to the possession of land;

15 (ii) all mines, minerals, and quarries in and under the
16 land subject to the provisions of 15-23-501 and Title 15,
17 chapter 23, part 8; all timber belonging to individuals or
18 corporations growing or being on the lands of the United
19 States; and all rights and privileges appertaining thereto.

20 (o) "Research and development firm" means an entity
21 incorporated under the laws of this state or a foreign
22 corporation authorized to do business in this state whose
23 principal purpose is to engage in theoretical analysis,
24 exploration, and experimentation and the extension of
25 investigative findings and theories of a scientific and

1 technical nature into practical application for experimental
2 and demonstration purposes, including the experimental
3 production and testing of models, devices, equipment,
4 materials, and processes.

5 (p) The term "taxable value" means the percentage of
6 market or assessed value as provided for in 15-6-131 through
7 15-6-149 Title 15, chapter 6, part 1.

8 (q) The term "weighted mean assessment ratio" means
9 the total of the assessed values divided by the total of the
10 selling prices of all area sales in the stratum.

11 (2) The phrase "municipal corporation" or
12 "municipality" or "taxing unit" shall be deemed to include a
13 county, city, incorporated town, township, school district,
14 irrigation district, drainage district, or any person,
15 persons, or organized body authorized by law to establish
16 tax levies for the purpose of raising public revenue.

17 (3) The term "state board" or "board" when used
18 without other qualification shall mean the state tax appeal
19 board."

20 ~~Section 41. Section 15-6-135, MCA, is amended to read:~~

21 ~~"15-6-135. Class five property description~~
22 ~~taxable percentage. (1) Class five property includes:~~

23 ~~(a) all property used and owned by cooperative rural~~
24 ~~electrical and cooperative rural telephone associations~~
25 ~~organized under the laws of Montana, except property owned~~

1 by--cooperative-organizations-described-in-subsection-(1)(b)
2 of-15-6-137;

3 (b)--air--and--water--pollution--control--equipment--as
4 defined-in-this-section;

5 (c)--new---industrial---property--as--defined--in--this
6 section;

7 (d)--any-personal-or-real-property--used--primarily--in
8 the--production--of--gasohol-during-construction-and-for-the
9 first-3-years-of-its-operation;

10 (e)--all--land--and--improvements--and--all---personal
11 property--owned-by-a-research-and-development-firm,provided
12 that-the--property--is--actively--devoted--to--research--and
13 development;

14 (f)--machinery---and--equipment--used--in--electrolytic
15 reduction-facilities;

16 (g)--machinery-and-equipment-used-in-canoia-seed-oil
17 processing--facilities--provided--that-the-operators-of-such
18 facilities-employ-a-minimum-of-25-15-full-time-employees-and
19 locate-in-the-state-of-Montana-after-the-effective-date-of
20 this-act;

21 (2)--(a) "Air--and--water--pollution--equipment"--means
22 facilities,--machinery,--or--equipment--used--to--reduce--or
23 control--water--or-atmospheric-pollution-or-contamination-by
24 removing,--reducing,--altering,--disposing,--or--storing
25 pollutants,--contaminants,--wastes,--or-heat. The-department-of

1 health--and--environmental--sciences-shall-determine-if-such
2 utilization-is-being-made.

3 (b)--The--department--of---health---and---environmental
4 sciences--determination--as--to--air--and--water--pollution
5 equipment-may--be--appealed--to--the-board-of--health--and
6 environmental--sciences--and-may-not-be-appealed-to-either-a
7 county-tax-appeal-board--or--the--state--tax--appeal--board.
8 However,--the-appraised-value-of-the-equipment-as-determined
9 by-the-department-of-revenue-may-be-appealed-to--the--county
10 tax-appeal-board-and-the-state-tax-appeal-board.

11 (3)--"New-industrial-property"--means-any-new-industrial
12 plant,--including--land,--buildings,--machinery,--and-fixtures,
13 used-by-new-industries-during-the-first--3--years--of--their
14 operation. The--property--may-not-have-been-assessed-within
15 the-state-of-Montana-prior-to-July-17-1961.

16 (4)--(a) "New-industry"--means-any-person,--corporation,
17 firm,--partnership,--association,--or--other--group--that
18 establishes-a-new-plant-in-Montana-for-the--operation--of--a
19 new--industrial--endeavor,--as--distinguished--from--a--mere
20 expansion,--reorganization,--or--merger--of--an--existing
21 industry.

22 (b)--New--industry--includes-only-those-industries-that:
23 (i)--manufacture,--mill,--mine,--produce,--process,--or
24 fabricate-materials;

25 (ii)--do--similar--work,--employing-capital-and-labor,--in

1 which materials unserviceable in their natural state are
 2 extracted, processed, or made fit for use or are
 3 substantially altered or treated so as to create commercial
 4 products or materials, or
 5 (iii) engage in the mechanical or chemical
 6 transformation of materials or substances into new products
 7 in the manner defined as manufacturing in the 1972 Standard
 8 Industrial Classification Manual prepared by the United
 9 States office of management and budget;
 10 (5) New industrial property does not include:
 11 (a) property used by retail or wholesale merchants,
 12 commercial services of any type, agriculture, trades, or
 13 professions;
 14 (b) a plant that will create adverse impact on
 15 existing state, county, or municipal services; or
 16 (c) property used or employed in any industrial plant
 17 that has been in operation in this state for 3 years or
 18 longer; or
 19 (d) property otherwise classified as class five
 20 property;
 21 (6) "Canola seed oil processing facility" means a
 22 facility that:
 23 (a) extracts oil from canola seeds, refines the crude
 24 oil to produce edible oil, formulates and packages the
 25 edible oil into food products, or engages in any one or more

1 of those processes, and
 2 (b) employs at least 25-15 employees in a full-time
 3 capacity;
 4 (6)(7) Class five property is taxed at 3% of its
 5 market value."
 6 **SECTION 2. SECTION 15-6-136, MCA, IS AMENDED TO READ:**
 7 "15-6-136. Class six property -- description --
 8 taxable percentage. (1) Class six property includes:
 9 (a) livestock and other species of domestic animals
 10 and wildlife raised in domestication or a captive
 11 environment, except for cats, dogs, and other household pets
 12 not raised for profit;
 13 (b) items of personal property intended for rent or
 14 lease in the ordinary course of business, provided each item
 15 of personal property satisfies all of the following:
 16 (i) the full and true value of the personal property
 17 is less than \$5,000;
 18 (ii) the personal property is owned by a business whose
 19 primary business income is from rental or lease of personal
 20 property to individuals wherein no one customer of the
 21 business accounts for more than 10% of the total rentals or
 22 leases during a calendar year; and
 23 (iii) the lease of the personal property is generally
 24 on an hourly, daily, or weekly basis; and
 25 (c) machinery and equipment used in a malting barley

1 facility; and

2 (d) machinery and equipment used in canola seed oil
3 processing facilities if:

4 (i) the operators of such facilities employ a minimum
5 of 15 full-time employees; and

6 (ii) a canola seed oil processing facility locates in
7 the state of Montana after [the effective date of this act].

8 (2) "Malting barley facility" means a facility the
9 principal purpose of which is to malt malting barley. The
10 term does not apply to a facility the principal purpose of
11 which is to store, mix, blend, transport, transfer, or
12 otherwise do anything with malting barley, except malt
13 malting barley. However, any machinery or equipment the
14 principal purpose of which is to store, mix, blend,
15 transport, transfer, or otherwise handle malting barley or
16 other machinery or equipment that is used in or is otherwise
17 an integral part of a facility that malts malting barley is
18 machinery or equipment of a malting barley facility for the
19 purposes of this section.

20 (3) "Canola seed oil processing facility" means a
21 facility that:

22 (a) extracts oil from canola seeds, refines the crude
23 oil to produce edible oil, formulates and packages the
24 edible oil into food products, or engages in any one or more
25 of those processes; and

1 (b) employs at least 15 employees in a full-time
2 capacity.

3 ~~(3)~~(4) Class six property is taxed at 4% of its market
4 value."

5 NEW SECTION. Section 3. Contingency. It is the intent
6 of the legislature that [section 41] is void unless a new
7 facility employing at least 25 15 employees in the
8 processing of canola seed oil locates in the state of
9 Montana after [the effective date of this act].

10 Section 4. Section 15-6-137, MCA, is amended to read:

11 "15-6-137. Class seven property -- description --
12 taxable percentage. (1) Class seven property includes:

13 (a) all property used and owned by persons, firms,
14 corporations, or other organizations that are engaged in the
15 business of furnishing telephone communications exclusively
16 to rural areas or to rural areas and cities and towns of 800
17 persons or less;

18 (b) all property owned by cooperative rural electrical
19 and cooperative rural telephone associations that serve less
20 than 95% of the electricity consumers or telephone users
21 within the incorporated limits of a city or town;

22 (c) electric transformers and meters; electric light
23 and power substation machinery; natural gas measuring and
24 regulating station equipment, meters, and compressor station
25 machinery owned by noncentrally assessed public utilities;

1 and tools used in the repair and maintenance of this
2 property;.

3 ~~{d}--any-tools-or-implements-that-are-not--included--in~~
4 ~~another--class--or-that-are-exempt-under-15-6-201(i)(r),--and~~
5 ~~machinery-used-to-repair-and-maintain-machinery-not-used-for~~
6 ~~manufacturing-and-mining-purposes;~~

7 (2) To qualify for this classification, the average
8 circuit miles for each station on the telephone
9 communication system described in subsection (1)(b) must be
10 more than 1 mile.

11 (3) Class seven property is taxed at 8% of its market
12 value."

13 **Section 5.** Section 15-6-138, MCA, is amended to read:

14 "15-6-138. Class eight property -- description --
15 taxable percentage. (1) Class eight property includes:

16 (a) all agricultural implements and equipment;
17 (b) all mining machinery, fixtures, equipment, tools
18 that are not exempt under 15-6-201(1)(r), and supplies
19 except;

20 ~~{i}~~ those included in class five; and

21 ~~{ii}-coal-and-ore-haulers;~~

22 (c) all manufacturing machinery, fixtures, equipment,
23 tools that are not exempt under 15-6-201(1)(r), and supplies
24 except those included in class five;

25 (d) all trailers, including those prorated under

1 15-24-102, except those subject to taxation under
2 61-3-504(2);

3 (e) all goods and equipment intended for rent or
4 lease, except goods and equipment specifically included and
5 taxed in another class;

6 (f) buses and trucks having a rated capacity of more
7 than 1 ton, including those prorated under 15-24-102; and

8 ~~{g}--all--other--machinery--except--that---specifically~~
9 ~~included-in-another-class;~~

10 (g) truck toppers weighing more than 300 pounds;

11 (h) furniture, fixtures, and equipment, except that
12 specifically included in another class, used in commercial
13 establishments as defined in this section;

14 (i) x-ray and medical and dental equipment;

15 (j) citizens' band radios and mobile telephones;

16 (k) radio and television broadcasting and transmitting
17 equipment;

18 (l) cable television systems;

19 (m) coal and ore haulers;

20 (n) theater projectors and sound equipment; and

21 (o) all other property not included in any other class
22 in this part, except that property subject to a fee in lieu
23 of a property tax.

24 (2) As used in this section, "coal and ore haulers"
25 means nonhighway vehicles that exceed 18,000 pounds per axle

1 and that are primarily designed and used to transport coal,
 2 ore, or other earthen material in a mining or quarrying
 3 environment.

4 (3) "Commercial establishment" includes any hotel;
 5 motel; office; petroleum marketing station; or service,
 6 wholesale, retail, or food-handling business.

7 ~~(2)~~(4) Class eight property is taxed at ~~11%~~ 6% 9% of
 8 its market value."

9 **Section 6.** Section 15-10-402, MCA, is amended to read:

10 "15-10-402. Property tax limited to 1986 levels. (1)
 11 Except as provided in subsections (2) and (3), the amount of
 12 taxes levied on property described in 15-6-133, 15-6-134,
 13 15-6-136, ~~15-6-139~~, 15-6-142, and 15-6-144 may not, for any
 14 taxing jurisdiction, exceed the amount levied for taxable
 15 year 1986.

16 (2) The limitation contained in subsection (1) does
 17 not apply to levies for rural improvement districts, Title
 18 7, chapter 12, part 21; special improvement districts, Title
 19 7, chapter 12, part 41; or bonded indebtedness.

20 (3) New construction or improvements to or deletions
 21 from property described in subsection (1) are subject to
 22 taxation at 1986 levels.

23 (4) As used in this section, the "amount of taxes
 24 levied" and the "amount levied" mean the actual dollar
 25 amount of taxes imposed on an individual piece of property,

1 notwithstanding an increase or decrease in value due to
 2 inflation, reappraisal, adjustments in the percentage
 3 multiplier used to convert appraised value to taxable value,
 4 changes in the number of mills levied, or increase or
 5 decrease in the value of a mill."

6 **Section 7.** Section 15-24-1102, MCA, is amended to
 7 read:

8 "15-24-1102. Federal property held under contract of
 9 sale. When the property is held under a contract of sale or
 10 other agreement whereby upon payment the legal title is or
 11 may be acquired by the person, the real property shall be
 12 assessed and taxed as defined in ~~15-6-131 through 15-6-149~~
 13 Title 15, chapter 6, part 1, and 15-8-111 without deduction
 14 on account of the whole or any part of the purchase price or
 15 other sum due on the property remaining unpaid. The lien for
 16 the tax may not attach to, impair, or be enforced against
 17 any interest of the United States in the real property."

18 **Section 8.** Section 15-24-1103, MCA, is amended to
 19 read:

20 "15-24-1103. Federal property held under lease. When
 21 the property is held under lease, other interest, or estate
 22 therein less than the fee, except under contract of sale,
 23 the property shall be assessed and taxed as for the value,
 24 as defined in ~~15-6-131 through 15-6-149~~ Title 15, chapter 6,
 25 part 1, of such leasehold, interest, or estate in the

1 property and the lien for the tax shall attach to and be
 2 enforced against only the leasehold, interest, or estate in
 3 the property. When the United States authorizes the taxation
 4 of the property for the full assessed value of the fee
 5 thereof, the property shall be assessed for full assessed
 6 value as defined in 15-8-111."

7 **Section 48.** ~~Section 15-35-103, MCA, is amended to~~
 8 ~~read:~~

9 "15-35-103. ~~Severance tax rates~~ rate imposed. ~~(1)~~
 10 ~~Subject to the provisions of 15-35-202 allowing a new coal~~
 11 ~~production incentive tax credit, a severance tax of 1% of~~
 12 ~~value is imposed on each ton of coal produced in the state,~~
 13 ~~in accordance with the following schedule:~~

14 ~~(a) After June 30, 1987, and before July 1, 1990:~~
 15

Heating quality	Surface--	Underground
{Btu-per-pound	Mining--	Mining--
---of-coal}:	-	-
Under-7,000	17% of value	3% of value
7,000-and-over	25% of value	4% of value

 20 ~~(b) After June 30, 1990, and before July 1, 1991:~~

1 Heating quality Surface-- Underground
 2 {Btu-per-pound Mining-- Mining--
 3 ---of-coal}:-
 4 Under-7,000 13% of value 3% of value
 5 7,000-and-over 20% of value 4% of value

6 (c) ~~After June 30, 1991:~~
 7 Heating quality Surface-- Underground
 8 {Btu-per-pound Mining-- Mining--
 9 ---of-coal}:-
 10 Under-7,000 10% of value 3% of value
 11 7,000-and-over 15% of value 4% of value

12 (2) ~~"Value" means the contract sales price.~~
 13 (3) ~~The formula which yields the greater amount of tax~~
 14 ~~in a particular case shall be used at each point on these~~
 15 ~~schedules.~~

16 (4) ~~(3) A person is not liable for any severance tax~~
 17 ~~upon 50,000 tons of the coal he produces in a calendar year,~~
 18 ~~except that if he produces more than 50,000 tons of coal in~~
 19 ~~a calendar year, he will be liable for severance tax upon~~
 20 ~~all coal produced in excess of the first 20,000 tons.~~

21 (5) ~~(4) A new coal production incentive tax credit may~~
 22 ~~be claimed on certain coal as provided in 15-35-202."~~

23 **Section 49.** ~~Section 19-11-503, MCA, is amended to~~
 24 ~~read:~~

25 "19-11-503. ~~Special tax levy for fund required.~~ ~~(1)~~

The purpose of this section is to provide a means by which each disability and pension fund may be maintained at a level equal to 4% 4.26% of the taxable valuation of all taxable property within the limits of the city or town.

(2) Whenever the fund contains less than 4% 4.26% of the taxable valuation of all taxable property within the limits of the city or town, the governing body of the city or town shall, at the time of the levy of the annual tax, levy a special tax as provided in 19-11-504. The special tax must be collected as other taxes are collected and, when so collected, must be paid into the disability and pension fund.

(3) If a special tax for the disability and pension fund is levied by a third class city or town using the all-purpose mill levy, the special tax levy must be made in addition to the all-purpose levy."

Section 50. Section 19-11-504, MCA, is amended to read:

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than 4% 4.26% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

Section 51. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation legislature shall biennially appropriate money for state equalization aid shall be made in a single sum for the biennium. The superintendent of public instruction has authority to may spend such the appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following shall must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) 31.8% of all money received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all money, except as provided in 15-31-702, received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 100% of the money allocated to state equalization

1 from the collection of the severance tax on coal;

2 {d}--100% of the money received from the treasurer of

3 the United States as the state's shares of oil, gas, and

4 other mineral royalties under the federal Mineral Lands

5 Leasing Act, as amended;

6 {e}--interest and income money described in 20-9-341

7 and 20-9-342;

8 {f}--income from the education trust fund account; and

9 {g}--in addition to these revenues, the surplus

10 revenues collected by the counties for foundation program

11 support according to 20-9-331 and 20-9-333; and

12 {h}--money allocated from the privilege tax on coal as

13 provided in {section 7(2)(d)}.

14 {4}--Any surplus revenue in the state equalization aid

15 account in the second year of a biennium may be used to

16 reduce the appropriation required for the next succeeding

17 biennium."

18 **Section 52.** Section 20-9-406, MCA, is amended to read:

19 "20-9-406. Limitations on amount of bond issue. (1)

20 The maximum amount for which each school district may become

21 indebted by the issuance of bonds, including all

22 indebtedness represented by outstanding bonds of previous

23 issues and registered warrants, is 45% 47.9% of the taxable

24 value of the property subject to taxation as ascertained by

25 the last completed assessment for state, county, and school

1 taxes previous to the incurring of such indebtedness. The

2 45% maximum, however, may not pertain to indebtedness

3 imposed by special improvement district obligations or

4 assessments against the school district or to bonds issued

5 for the repayment of tax protests lost by the district. All

6 bonds issued in excess of such amount shall be null and

7 void, except as provided in this section.

8 {2}--When the total indebtedness of a school district

9 has reached the 45% limitation prescribed in this section,

10 the school district may pay all reasonable and necessary

11 expenses of the school district on a cash basis in

12 accordance with the financial administration provisions of

13 this chapter.

14 {3}--Whenever bonds are issued for the purpose of

15 refunding bonds, any moneys to the credit of the debt

16 service fund for the payment of the bonds to be refunded are

17 applied towards the payment of such bonds and the refunding

18 bond issue is decreased accordingly."

19 **Section 53.** Section 20-9-407, MCA, is amended to read:

20 "20-9-407. Industrial facility agreement for bond

21 issue in excess of maximum. (1) In a school district within

22 which a new major industrial facility which seeks to qualify

23 for taxation as class five property under 15-6-135 is being

24 constructed or is about to be constructed, the school

25 district may require, as a precondition of the new major

1 industrial facility qualifying as class five property,--that
 2 the owners of the proposed industrial facility enter into an
 3 agreement with the school district concerning the issuing of
 4 bonds---in--excess--of--the--45%--limitation--prescribed--in
 5 20-9-406. Under such an agreement, the school district--may,
 6 with--the--approval--of--the--voters, issue bonds which exceed
 7 the limitation prescribed in this section by--a--maximum--of
 8 45% 47.9% of the estimated taxable value of the property of
 9 the new major industrial facility subject to--taxation--when
 10 completed. The--estimated--taxable value of the property of
 11 the new major industrial facility subject to taxation--shall
 12 be--computed--by--the--department of revenue when requested to
 13 do so by a resolution of the board of trustees of the school
 14 district. A copy of the department's statement of--estimated
 15 taxable--value--shall be printed on each ballot used to vote
 16 on a bond issue proposed under this section.

17 {2} Pursuant to the agreement between--the--new--major
 18 industrial--facility--and--the--school--district--and--as--a
 19 precondition to qualifying as class five property,--the--new
 20 major--industrial--facility--and--its--owners--shall pay, in
 21 addition to the taxes imposed--by--the--school--district--on
 22 property--owners--generally,--so--much--of--the--principal and
 23 interest on the bonds provided for--under--this--section--as
 24 represents--payment--on--an--indebtedness--in--excess of the
 25 limitation prescribed in 20-9-406. After the completion of

1 the--new--major--industrial--facility and when the indebtedness
 2 of the school district--no--longer--exceeds--the--limitation
 3 prescribed--in--this--section,--the--new--major--industrial
 4 facility--shall--be--entitled,---after---all---the---current
 5 indebtedness--of--the--school--district--has--been--paid,--to--a--tax
 6 credit over a period of no more than 20 years. The--credit
 7 shall--as--a--total--amount--be--equal--to--the--amount--which--the
 8 facility paid the--principal--and--interest--of--the--school
 9 district's--bonds--in--excess--of--its--general--liability--as--a
 10 taxpayer within the district.

11 {3} A major industrial facility is a facility--subject
 12 to--the--taxing--power--of--the--school--district,--whose
 13 construction or operation will increase--the--population--of
 14 the--district,--imposing--a--significant--burden--upon--the
 15 resources of the district and requiring construction of--new
 16 school--facilities. A significant burden is an increase in
 17 ANB of at least 20% in a single year."

18 **Section 54.** Section 20-9-502, MCA, is amended to read:

19 "20-9-502. Purpose and--authorization--of--a--building
 20 reserve--fund--by--an--election. {1} The trustees of any
 21 district, with the approval of the qualified electors of the
 22 district, may establish a building reserve for--the--purpose
 23 of--raising--money--for--the--future--construction, equipping, or
 24 enlarging--of--school--buildings--or--for--the--purpose--of
 25 purchasing--land--needed--for--school--purposes--in--the--district.

1 in-order-to-submit-to-the-qualified-electors-of-the-district
2 a-building-reserve-proposition-for-the-establishment--of--or
3 addition--to--a--building-reserve, the-trustees-shall-pass-a
4 resolution-that-specifies:

5 {a}--the-purpose-or--purposes--for--which--the--new--or
6 addition-to-the-building-reserve-will-be-used;

7 {b}--the--duration--of--time--over--which--the--new--or
8 addition-to-the-building-reserve-will-be-raised--in--annual,
9 equal-installments;

10 {c}--the--total--amount--of--money--that-will-be-raised
11 during-the-duration-of-time-specified-in-subsection--(1){b};
12 and

13 {d}--any--other--requirements--under--20-20-201-for-the
14 calling-of-an-election;

15 {2}--The-total-amount-of-building-reserve-when-added-to
16 the-outstanding-indebtedness-of-the-district--shall--not--be
17 more--than--45% 47.9% of--the-taxable-value-of-the-taxable
18 property--of--the--district. Such---limitation---shall---be
19 determined--in--the--manner-provided-in-20-9-406. A-building
20 reserve-tax-authorization-shall-not-be--for--more--than--20
21 years;

22 {3}--The-election-shall-be-conducted-in-accordance-with
23 the--school--election--laws--of-this-title, and-the-electors
24 qualified-to-vote-in-the-election-shall-be-qualified--under
25 the--provisions--of--20-20-301. The-ballot--for-a-building

1 reserve-proposition-shall-be-substantially-in-the--following
2 form:

3 OFFICIAL-BALLOT

4 SCHOOL-DISTRICT-BUILDING-RESERVE-ELECTION

5 INSTRUCTIONS--TO--VOTERS:--Make-an-X-or-similar-mark-in
6 the-vacant-square-before-the-words--"BUILDING--RESERVE--YES"
7 if--you--wish--to--vote--for-the-establishment-of-a-building
8 reserve--(addition-to--the--building--reserve);--if--you--are
9 opposed-to-the-establishment-of-a-building-reserve--(addition
10 to--the--building--reserve)--make-an-X-or-similar-mark-in-the
11 square-before-the-words--"BUILDING-RESERVE--NO".

12 Shall--the--trustees--be--authorized---to---impose---an
13 additional--levy--each--year--for--....years-to-establish-a
14 building-reserve--(add--to--the--building--reserve)--of--this
15 school--district--to--raise--a--total-amount-of--....dollars
16 {\$.} for-the-purpose(s)---{here-state-the-purpose--or
17 purposes-for-which-the-building-reserve-will-be-used}?

18 --BUILDING-RESERVE--YES;

19 --BUILDING-RESERVE--NO;

20 {4}--The-building-reserve-proposition-shall-be-approved
21 if--a--majority--of--those--electors--voting-at-the-election
22 approve-the-establishment-of-or-addition--to--such--building
23 reserve. The-annual-budgeting-and-taxation-authority-of-the
24 trustees--for--a--building--reserve--shall--be--computed--by
25 dividing-the-total-authorized-amount-by-the-specified-number

of--years---The--authority--of--the--trustees--to--budget--and
impose--the--taxation--for--the--annual--amount--to--be--raised--for
the--building--reserve--shall--lapse--when,--at--a--later--time,--a
bond--issue--is--approved--by--the--qualified--electors--of--the
district--for--the--same--purpose--or--purposes--for--which--the
building--reserve--fund--of--the--district--was--established.
Whenever--a--subsequent--bond--issue--is--made--for--the--same
purpose--or--purposes--of--a--building--reserve,--the--money--in--the
building--reserve--shall--be--used--for--such--purpose--or--purposes
before--any--money--realized--by--the--bond--issue--is--used.*

NEW SECTION. SECTION 9. REIMBURSEMENT TO LOCAL
GOVERNMENTS AND SCHOOLS -- DUTIES OF DEPARTMENT AND COUNTY
TREASURER -- STATUTORY APPROPRIATION. (1) (A) ON OR BEFORE
MAY 1, 1990, THE DEPARTMENT OF REVENUE SHALL REMIT TO THE
COUNTY TREASURER OF EACH COUNTY 30% OF THE REIMBURSEMENT
AMOUNT SPECIFIED IN SUBSECTION (1)(B), AS COMPUTED BY THE
DEPARTMENT. THE DEPARTMENT SHALL BASE THE REIMBURSEMENT ON
THE REDUCTION IN PERSONAL PROPERTY TAX REVENUES DUE TO THE
REDUCTION IN PERSONAL PROPERTY TAX RATES FOR CLASS EIGHT
PROPERTY, AS PROVIDED FOR IN 15-6-138, AND ANY REDUCTION IN
TAXES BASED UPON RECALCULATION OF THE EFFECTIVE TAX RATE FOR
PROPERTY IN 15-6-145 AND 15-6-147. THE REIMBURSEMENT BASIS
MUST ALSO INCLUDE LOSS OF PERSONAL PROPERTY TAX REVENUE DUE
TO THE RECLASSIFICATION OF NEW INDUSTRIAL PROPERTY FROM
CLASS FIVE TO CLASS EIGHT WITH THE REDUCED TAX RATE. THE

DETERMINATION OF THE REIMBURSEMENT BASIS MUST BE MADE IN THE
YEAR IN WHICH THE RECLASSIFICATION IS MADE.

(B) THE REIMBURSEMENT REVENUE MUST BE BASED ON THE
COUNTY'S TAXABLE VALUE AND MILL LEVIES FOR TAX YEAR 1989.

(2) PRIOR TO SEPTEMBER 1, 1990, THE DEPARTMENT'S AGENT
IN THE COUNTY SHALL SUPPLY THE FOLLOWING INFORMATION TO THE
DEPARTMENT FOR EACH TAXING JURISDICTION WITHIN THE COUNTY:

(A) THE NUMBER OF MILLS LEVIED IN THE JURISDICTION FOR
TAXABLE YEAR 1989;

(B) THE NUMBER OF MILLS LEVIED IN THE JURISDICTION FOR
TAXABLE YEAR 1990;

(C) THE TOTAL TAXABLE VALUATION FOR TAXABLE YEARS 1989
AND 1990, REPORTED SEPARATELY FOR EACH YEAR, OF ALL PERSONAL
PROPERTY NOT SECURED BY REAL PROPERTY; AND

(D) THE TOTAL TAXABLE VALUATION FOR TAXABLE YEARS 1989
AND 1990, REPORTED SEPARATELY FOR EACH YEAR, OF ALL PERSONAL
PROPERTY SECURED BY REAL PROPERTY.

(3) AFTER RECEIPT OF THE INFORMATION FROM ITS AGENT,
THE DEPARTMENT SHALL CALCULATE THE AMOUNT OF REVENUE LOST TO
EACH TAXING JURISDICTION, USING CURRENT YEAR MILL LEVIES,
DUE TO THE ANNUAL REDUCTION IN PERSONAL PROPERTY TAX RATES
SET FORTH IN 15-6-138, AND ANY REDUCTION IN TAXES BASED UPON
RECALCULATION OF THE EFFECTIVE TAX RATE FOR PROPERTY IN
15-6-145 AND 15-6-147. THE DEPARTMENT SHALL TOTAL THE
AMOUNTS FOR ALL TAXING JURISDICTIONS WITHIN THE COUNTY.

(4) FOR TAXABLE YEAR 1990 AND FOR EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REMIT TO THE COUNTY TREASURER THE BASE AMOUNT OF REVENUE REIMBURSABLE, DETERMINED PURSUANT TO SUBSECTION (3), AS FOLLOWS:

(A) ON OR BEFORE NOVEMBER 30, 1990, AND ON OR BEFORE EACH NOVEMBER 30 THEREAFTER, THE DEPARTMENT SHALL REMIT 50% OF THE BASE AMOUNT OF THE REVENUE REIMBURSABLE TO THE COUNTY; AND

(B) ON OR BEFORE MAY 31, 1991, AND ON OR BEFORE EACH MAY 31 THEREAFTER, THE DEPARTMENT SHALL REMIT 50% OF THE BASE AMOUNT OF THE REVENUE REIMBURSABLE TO THE COUNTY.

(5) UPON RECEIPT OF THE REIMBURSEMENT FROM THE DEPARTMENT, THE COUNTY TREASURER SHALL DISTRIBUTE THE REIMBURSEMENT TO EACH TAXING JURISDICTION IN THE RELATIVE PROPORTIONS REQUIRED BY THE LEVIES FOR STATE, COUNTY, SCHOOL DISTRICT, AND MUNICIPAL PURPOSES IN THE SAME MANNER AS CURRENT YEAR MILL LEVIES ON PERSONAL PROPERTY TAXES ARE DISTRIBUTED.

(6) FOR THE PURPOSES OF THIS SECTION, "TAXING JURISDICTION" MEANS LOCAL GOVERNMENTS AND INCLUDES SCHOOL DISTRICTS, EACH MUNICIPALITY WITH TAX INCREMENT FINANCING, AND THE STATE OF MONTANA.

(7) THE AMOUNTS NECESSARY FOR THE ADMINISTRATION OF THIS SECTION ARE STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, FROM THE GENERAL FUND TO REIMBURSE SCHOOL

DISTRICTS AND LOCAL GOVERNMENTS FOR REDUCTIONS IN TAX RATES ON PERSONAL PROPERTY.

SECTION 10. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an
appropriation made by permanent law that authorizes spending
by a state agency without the need for a biennial
legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be
effective, a statutory appropriation must comply with both
of the following provisions:

(a) The law containing the statutory authority must be
listed in subsection (3).

(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.

(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-70-101;
16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
19-12-301; 19-13-604; 20-6-406; 20-8-111; 23-5-306;
23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027;

1 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206;
 2 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108;
 3 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161;
 4 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and
 5 section 13, House Bill No. 861, Laws of 1985; and [section
 6 9].

7 (4) There is a statutory appropriation to pay the
 8 principal, interest, premiums, and costs of issuing, paying,
 9 and securing all bonds, notes, or other obligations, as due,
 10 that have been authorized and issued pursuant to the laws of
 11 Montana. Agencies that have entered into agreements
 12 authorized by the laws of Montana to pay the state
 13 treasurer, for deposit in accordance with 17-2-101 through
 14 17-2-107, as determined by the state treasurer, an amount
 15 sufficient to pay the principal and interest as due on the
 16 bonds or notes have statutory appropriation authority for
 17 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 18 664, L. 1987, the inclusion of 39-71-2504 terminates June
 19 30, 1991.)"

20 NEW SECTION. Section 11. Repealer. Sections 15-6-139,
 21 15-6-140, and 15-6-146, MCA, are repealed.

22 NEW SECTION. Section 12. Effective date. {1}--Except
 23 as provided in subsection {2}, {this [THIS act]} is effective
 24 on passage and approval.

25 {2}--If {this act} is passed and approved after July 1,

1 1989,--{this act}--is--effective--retroactively,--within--the
 2 meaning--of--1-2-109,--to--July--1,--1989.

3 NEW SECTION. Section 13. Applicability
 4 contingency. {1}--If--{this act}--is--passed--and--approved--after
 5 June--30,--1989,--{sections 1 through 18}--apply--retroactively,
 6 within--the--meaning--of--1-2-109,--to--all--coal--sold--and--the
 7 receipts--from--such--sales--after--June--30,--1989,--Coal--sold
 8 prior--to--July--1,--1989,--is--not--subject--to--the--tax--imposed--in
 9 {section--1},--regardless--of--when--the--privilege--tax--is
 10 collected.

11 {2}--If--{this act}--is--passed--and--approved--prior--to--July
 12 1,--1989,--{sections 1 through 18}--apply--July--1,--1989,--to--all
 13 coal--sold--after--June--30,--1989,--Coal--sold--prior--to--July--1,
 14 1989,--is--not--subject--to--the--tax--imposed--in--{section--1},
 15 regardless--of--when--the--privilege--tax--is--collected.

16 {3}--{Sections 20 through 55}--apply--to--taxable--years
 17 beginning--after--December--31,--1989,--and--to--fiscal--years
 18 beginning--after--June--30,--1990 [THIS ACT] APPLIES TO TAX
 19 YEARS BEGINNING AFTER DECEMBER 31, 1989.

20 NEW SECTION. Section 58. Saving clause.---{This act}
 21 does--not--affect--rights--and--duties--that--matured,--penalties
 22 that--were--incurred,--or--proceedings--that--were--begun--before
 23 {the--effective--date--of--this act};

24 NEW SECTION. Section 59. Nonseverability.---It--is--the
 25 intent--of--the--legislature--that--each--part--of--{this act}--is

1 essentially-dependent-upon-every-other-part,-and-if-one-part
2 is-held-unconstitutional-or-invalid,-all-other-parts-are
3 invalid.

4 ~~NEW-SECTION--Section-60--Codification---instruction-~~
5 ~~{Sections-1-through-18}-are-intended-to-be-codified-as-an~~
6 ~~integral-part-of-Title-15,-and-the-provisions-of-Title-15~~
7 ~~apply-to-{sections-1-through-18}.~~

-End-